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Monday
November 18, 1996

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WASHINGTON, DC

[Two Sessions]

WHEN: November 19, 1996 at 9:00 a.m.; and
December 10, 1996 at 9:00 a.m.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

AUSTIN, TX

WHEN: December 10, 1996
9:00 a.m. to 12:00 p.m.

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Reader Aids
Additional information, including a list of public laws, telephone numbers, reminders, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Executive Order 13025 of November 13, 1996

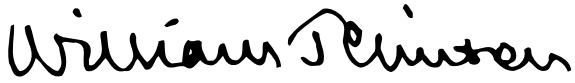
Amendment to Executive Order 13010, the President's Commission on Critical Infrastructure Protection

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to amend Executive Order 13010, it is hereby ordered as follows:

Section 1. The first sentence of section 1(a) of Executive Order 13010 shall read ''A qualified individual from outside the Federal Government shall be designated by the President from among the members to serve as Chair of the Commission.''

Sec. 2. The second and third sentences of section 3 of Executive Order 13010 shall read ''The Steering Committee shall comprise five members. Four of the members shall be appointed by the President, and the fifth member shall be the Chair of the Commission. Two of the members of the Committee shall be employees of the Executive Office of the President.''

Sec. 3. The first sentence of section 5 of Executive Order 13010 shall be amended by deleting ''ten'' and inserting ''15'' in lieu thereof.



THE WHITE HOUSE,
November 13, 1996.

[FR Doc. 96–29597
Filed 11–15–96; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

Federal Register
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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 96–045–1]

Brucellosis in Cattle; State and Area Classifications; New Mexico

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the brucellosis regulations concerning the interstate movement of cattle by changing the classification of New Mexico from Class A to Class Free. We have determined that New Mexico meets the standards for Class Free status. This action relieves certain restrictions on the interstate movement of cattle from New Mexico.

DATES: Interim rule effective November 18, 1996. Consideration will be given only to comments received on or before January 17, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–045–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–045–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Dr. Michael J. Gilsdorf, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, Suite 3B08, 4700 River Road Unit 36, Riverdale, MD 20737–1231, (301) 734–7708.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a contagious disease affecting animals and humans, caused by bacteria of the genus *Brucella*.

The brucellosis regulations, contained in 9 CFR part 78 (referred to below as the regulations), provide a system for classifying States or portions of States according to the rate of *Brucella* infection present, and the general effectiveness of a brucellosis control and eradication program. The classifications are Class Free, Class A, Class B, and Class C. States or areas that do not meet the minimum standards for Class C are required to be placed under Federal quarantine.

The brucellosis Class Free classification is based on a finding of no known brucellosis in cattle for the 12 months preceding classification as Class Free. The Class C classification is for States or areas with the highest rate of brucellosis. Class B and Class A fall between these two extremes. Restrictions on moving cattle interstate become less stringent as a State approaches or achieves Class Free status.

The standards for the different classifications of States or areas entail (1) maintaining a cattle herd infection rate not to exceed a stated level during 12 consecutive months; (2) tracing back to the farm of origin and successfully closing a stated percent of all brucellosis reactors found in the course of Market Cattle Identification (MCI) testing; (3) maintaining a surveillance system that includes testing of dairy herds, participation of all recognized slaughtering establishments in the MCI program, identification and monitoring of herds at high risk of infection (including herds adjacent to infected herds and herds from which infected animals have been sold or received), and having an individual herd plan in effect within a stated number of days after the herd owner is notified of the finding of brucellosis in a herd he or she owns; and (4) maintaining minimum procedural standards for administering the program.

Before the effective date of this interim rule, New Mexico was classified as a Class A State.

To attain and maintain Class Free status, a State or area must (1) remain free from field strain *Brucella abortus* infection for 12 consecutive months or longer; (2) trace back at least 90 percent of all brucellosis reactors found in the course of MCI testing to the farm of origin; (3) successfully close at least 95 percent of the MCI reactor cases traced to the farm of origin during the 12 consecutive month period immediately prior to the most recent anniversary of the date the State or area was classified Class Free; and (4) have a specified surveillance system, as described above, including an approved individual herd plan in effect within 15 days of locating the source herd or recipient herd.

After reviewing the brucellosis program records for New Mexico, we have concluded that this State meets the standards for Class Free status. Therefore, we are removing New Mexico from the list of Class A States in § 78.41(b) and adding it to the list of Class Free States in § 78.41(a). This action relieves certain restrictions on moving cattle interstate from New Mexico.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is warranted to remove unnecessary restrictions on the interstate movement of cattle from New Mexico.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon publication in the Federal Register. We will consider comments that are received within 60 days of publication of this rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget

has waived its review process required by Executive Order 12866.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the brucellosis status of New Mexico from Class A to Class Free will promote economic growth by reducing certain testing and other requirements governing the interstate movement of cattle from this State. Testing requirements for cattle moved interstate for immediate slaughter or to quarantined feedlots are not affected by this change. Cattle from certified brucellosis-free herds moving interstate are not affected by this change.

The groups affected by this action will be herd owners in New Mexico, as well as buyers and importers of cattle from this State.

There are an estimated 29,000 cattle herds in New Mexico that would be affected by this rule. Ninety-eight percent of these are owned by small entities. Test-eligible cattle offered for sale interstate from other than certified-free herds must have a negative test under present Class A status regulations, but not under regulations concerning Class Free status. If such testing were distributed equally among all herds affected by this rule, Class Free status would save approximately $5.56 per herd.

Therefore, we believe that changing the brucellosis status of New Mexico will not have a significant economic impact on the small entities affected by this interim rule.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This document contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 78

Animal diseases, Bison, Cattle, Hogs, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 9 CFR part 78 is amended as follows:

PART 78—BRUCELLOSIS

1. The authority citation for part 78 continues to read as follows:

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, and 134f; 7 CFR 2.22, 2.80, and 371.2(d).

§ 78.41 [Amended]

2. In § 78.41, paragraph (a) is amended by adding ''New Mexico,'' immediately after ''New Jersey,''.

3. In § 78.41, paragraph (b) is amended by removing ''New Mexico,''.

Done in Washington, DC, this 12th day of November 1996.

A. Strating,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–29476 Filed 11–15–96; 8:45 am]

BILLING CODE 3410–34–P

9 CFR Part 97

[Docket No. 96–074–1]

Commuted Traveltime Periods: Overtime Services Relating to Imports and Exports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Veterinary Services by adding commuted traveltime allowances for travel between various locations in New York and Vermont. Commuted traveltime allowances are the periods of time required for Veterinary Services employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by Veterinary Services employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of commuted traveltime for these locations.

EFFECTIVE DATE: November 18, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Louise Rakestraw Lothery, Director, Resource Management Support Staff, VS, APHIS, Suite 3B08, 4700 River Road Unit 44, Riverdale, MD 20737–1231, (301) 734–7517, or e-mail: llothery@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR, chapter I, subchapter D, and 7 CFR, chapter III, require inspection, laboratory testing, certification, or quarantine of certain animals, animal byproducts, plants, plant products, or other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of Veterinary Services (VS) on a Sunday or holiday, or at any other time outside the VS employee's regular duty hours, the Government charges a fee for the services in accordance with 9 CFR part 97. Under circumstances described in § 97.1(a), this fee may include the cost of commuted traveltime. Section 97.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as practicable, the periods of time required for VS employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty.

We are amending § 97.2 of the regulations by adding commuted traveltime allowances for travel between various locations in New York and Vermont. The amendments are set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between the dispatch and service locations.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are

impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the Federal Register.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

The number of requests for overtime services of a VS employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule or the application of its provisions.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 97

Exports, Government employees, Imports, Livestock, Poultry and poultry products, Travel and transportation expenses.

Accordingly, 9 CFR part 97 is amended as follows:

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

1. The authority citation for part 97 continues to read as follows:

Authority: 7 U.S.C. 2260; 49 U.S.C. 1741; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 97.2 is amended by adding in the table, in alphabetical order, under New York and Vermont, the following entries to read as follows:

§ 97.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Locations covered	Served from	Metropolitan area	
		Within	Outside
[Add]			
*	*	*	*
New York:			
*	*	*	*
Champlain	Highgate, VT.	1	
*	*	*	*
Vermont:			
*	*	*	*
Highgate	.....	1	
*	*	*	*

Done in Washington, DC, this 12th day of November 1996.

A. Strating,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–29477 Filed 11–15–96; 8:45 am]

BILLING CODE 3410–34–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

Amendment to Interpretative Statement Regarding Statutory Disqualification From Registration

AGENCY: Commodity Futures Trading Commission.

ACTION: Publication of Amended Interpretative Statement.

SUMMARY: The Commodity Futures Trading Commission has determined to amend its interpretation of the ''for other good cause'' standard contained in the Commission's Interpretative Statement With Respect to Section 8a(2) (C) and (E) and Section 8a(3) (J) and (M) of the Commodity Exchange Act. The amendment revises the existing statement by clarifying that violation of a settlement agreement with a contract market, registered futures association or other self-regulatory organization to withdraw from registration and/or not to apply for registration constitutes ''other good cause'' for adverse registration action under Section 8a(3)(M) of the Commodity Exchange Act, 7 U.S.C. 12a(3)(M).

EFFECTIVE DATE: November 18, 1996.

FOR FURTHER INFORMATION CONTACT: Stephen Mihans, Senior Attorney, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC. 20581. Telephone: (202) 418–5399.

SUPPLEMENTARY INFORMATION: The Commodity Futures Trading Commission (''Commission'') has determined to amend its Interpretative Statement With Respect to Section 8a(2) (C) and (E) and Section 8a(3) (J) and (M) of the Commodity Exchange Act (''Interpretative Statement'') by adding language clarifying that an applicant's violation of an explicit agreement, made in the context of a settlement with a contract market, registered futures association or other self-regulatory organization (''SRO''), to withdraw from registration and/or not to apply for registration constitutes ''other good cause'' for adverse registration action under section 8a(3)(M) of the Commodity Exchange Act, 7 U.S.C. 12a(3)(M).[1]

The Commission's Interpretative Statement, among other things, provides guidance on the scope and meaning of section 8a(3)(M), 7 U.S.C. 12a(3)(M), by identifying situations in which ''other good cause'' to affect a person's registration exists.[2] The Commission, by this release, amends the Interpretative Statement to describe an additional situation in which ''other good cause'' will be deemed to exist—namely, when a person, in a settlement with a contract market, registered futures association or other SRO, agrees to withdraw from and/or not to apply for Commission registration and then fails to withdraw from registration or applies for registration in violation of that agreement. Neither the existing

[1] The Interpretative Statement is printed as Appendix A following the Commission's part 3 (Registration) rules, 17 CFR part 3.

[2] It states, for example, that the Commission interprets paragraph (M) as authorizing the Commission to refuse to register a person if he or she is the subject of an administrative action brought by the Commission to revoke the person's existing registration, pending a final determination in that proceeding.

Interpretative Statement nor the statutory bases for adverse registration action set forth in Section 8a of the Act, 7 U.S.C. § 12a, establish a specific basis for denying or otherwise affecting registration in this situation. The Commission is publishing its amendment of the 8a(3)(M) Interpretative Statement to inform the public that failure to comply with an exchange or other SRO settlement agreement to withdraw from registration and/or not to apply for registration constitutes ''other good cause'' to deny or otherwise affect registration under Section 8a(3)(M).

List of Subjects in 17 CFR Part 3

Registration, Statutory disqualifications.

PART 3—[AMENDED]

For the reasons set forth above, part 3 of title 17 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 3 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 4, 4a, 6, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6k, 6m, 6n, 6o, 6p, 8, 9, 9a, 12, 12a, 13b, 13c, 16a, 18, 19, 21, 23; 5 U.S.C. 552, 552b.

Appendix A to Part 3 [Amended]

2. Appendix A to part 3 is amended by adding a new paragraph after the paragraph which bears the heading ''Section 8a(3)(M),'' to read as follows:

* * * * *

Similarly, the Commission interprets paragraph (M) to authorize the Commission to refuse to register, register conditionally or otherwise affect the registration of any person if such person has consented, in connection with an agreement of settlement with a contract market, a registered futures association, or any other self-regulatory organization, to comply with an undertaking to withdraw all forms of existing or pending registration and/or not to apply for registration with the National Futures Association or the Commission in any capacity. Such person's effort to violate his or her prior undertaking to withdraw from and/or not to apply for registration shall be considered to constitute ''other good cause'' under paragraph (M). The Commission believes that allowing such a person to be registered would be inappropriate and inconsistent with the intention of parties to the prior settlement agreement. The failure to withdraw or the attempt to register in the face of such an undertaking would indicate the lack of fair and honest dealing which the Commission believes constitutes ''other good cause'' for denying, revoking or conditioning registration under the Act. The Commission also believes that allowing registration in such a situation would be inconsistent with both Section 8a(2)(A), which authorizes the Commission to refuse to register, to register conditionally, or to revoke, suspend or place restrictions upon the registration of any person if such person's prior registration has been suspended (and the period of such suspension has not expired) or has been revoked, and Section 8a(3)(J), which authorizes the Commission to refuse to register or to register conditionally any person if he or she is subject to an outstanding order denying, suspending, or expelling such person from membership in a contract market, a registered futures association, or any other self-regulatory organization.

Issued in Washington, D.C., on October 31, 1996.

Jean A. Webb,

Secretary to the Commission, Commodity Futures Trading Commission.

[FR Doc. 96–28842 Filed 11–15–96; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 94F–0257]

Indirect Food Additives: Paper and Paperboard Components

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of the copolymer of the sodium salt of acrylic acid with polyethyleneglycol allyl ether in paper mill boilers. This action is in response to a petition filed by Betz Laboratories, Inc.

DATES: Effective November 18, 1996; written objections and requests for a hearing by December 18, 1996.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John R. Bryce, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3023.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of August 19, 1994 (59 FR 42837), FDA announced that a food additive petition (FAP 4B4426) had been filed by Betz Laboratories, Inc., 4636 Somerton Rd., Trevose, PA 19053–6783. The petition proposed to amend the food additive regulations in § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the safe use of the copolymer of the sodium salt of acrylic acid with polyethyleneglycol allyl ether in paper mill boilers.

FDA has evaluated the data and information in the petition and other relevant material. The agency concludes that the proposed use of the additive as an anticorrosion agent in paper mill boilers is safe, that it will achieve its intended technical effect, and that the regulations in § 176.170 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. In the August 19, 1994, notice of filing, the agency announced that it was placing the petitioner's environmental assessment on public display and provided 30 days for comments on that assessment. FDA received no comments on the assessment. Based upon the information available, FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before December 18, 1996, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made

and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 176 is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for 21 CFR part 176 continues to read as follows:

Authority: Secs. 201, 402, 406, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 346, 348, 379e).

2. Section 176.170 is amended in the table in paragraph (a)(5) by alphabetically adding a new entry under the headings ''List of Substances'' and ''Limitations'' to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of Substances	Limitations
* * *	* * * *
Acrylic acid, sodium salt copolymer with polyethyleneglycol allyl ether (CAS Reg. No. 86830–15–1).	For use only in paper mill boilers.
* * *	* * * *

* * * * *

Dated: October 25, 1996.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–29393 Filed 11–15–96; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 328

[Docket No. 95N–0341]

Over-the-Counter Drug Products Intended for Oral Ingestion that Contain Alcohol; Amendment of Final Rule

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule amending the regulations for over-the-counter (OTC) drug products intended for oral ingestion that contain alcohol as an inactive ingredient by exempting ipecac syrup from the maximum concentration limits of 0.5 percent alcohol or less when used by children under 6 years of age. This final rule is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATE: December 18, 1996.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–105), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2304.

SUPPLEMENTARY INFORMATION:

I. Background

In the Federal Register of March 13, 1995 (60 FR 13590), the agency issued a final rule establishing in § 328.10 (21 CFR 328.10) maximum concentration limits for alcohol (ethyl alcohol) as an inactive ingredient in OTC drug products intended for oral ingestion. The maximum concentration limit was set at 0.5 percent for any OTC drug product labeled for use by children under 6 years of age, and 5 percent for any OTC drug product labeled for use by children 6 to under 12 years of age. The final rule did not discuss ipecac syrup, an OTC drug product used to cause vomiting when poisoning occurs.

The United States Pharmacopeia (USP) 23d Revision states that alcohol is contained in ipecac syrup in concentrations between 1.0 and 2.5 percent (Ref. 1). Alcohol is used in the preparation of the syrup to ensure the complete extraction of alkaloids as their amine salts from ipecac powder and to reject extraneous material when ipecac syrup is prepared by percolation (Ref. 2).

Under § 201.308(c) (21 CFR 201.308(c)), OTC marketing of ipecac syrup is limited to a 1-fluid-ounce (30 milliliters (mL)) package. The product's labeling must contain a statement conspicuously boxed and in red letters that states: ''For emergency use to cause vomiting in poisoning. Before using, call physician, the Poison Control Center, or hospital emergency room immediately for advice.'' The labeling also must state: ''Usual dosage: 1 tablespoon (15 milliliters) in persons over 1 year of age.''

As part of the rulemaking for OTC poison treatment drug products (50 FR 2244, January 15, 1985), the agency proposed a dose of 1 tablespoonful (15 mL or 1/2 bottle) of ipecac syrup for children 1 to under 12 years of age. The agency also proposed a dose of 1 teaspoonful (5 mL) for children 6 months to under 1 year of age, and that ipecac syrup not be given to children under 6 months of age unless directed by a health professional. The agency will finalize these directions for use in a future issue of the Federal Register.

In the Federal Register of May 10, 1996 (61 FR 21392), the agency published a proposed amendment of § 328.10 to exempt ipecac syrup from the requirements of § 328.10(d), which

limit alcohol content to 0.5 percent or less in OTC drug products intended for oral ingestion for use by children 6 years of age or less.

The agency noted that the maximum amount of ipecac syrup per packaged container does not exceed 30 mL, and the maximum quantity of alcohol at a 2.5 percent concentration contained in 30 mL of ipecac syrup is 0.75 mL. If a child under 6 years old swallowed the entire contents of a 30 mL container of ipecac syrup, the ingested amount of alcohol (0.75 mL) is insignificant. The labeled dose of ipecac syrup is a one-time treatment of 15 mL (0.375 mL alcohol) for children 1 to under 12 years of age. In addition, the alcohol and the ipecac syrup are generally vomited together with other stomach contents. Thus, the benefit of ipecac syrup as an emetic outweighs any risk of adverse effects from ingestion of 0.375 to 0.75 mL of alcohol.

Interested persons were invited to submit comments by June 10, 1996, and comments on the agency's economic impact determination by June 10, 1996. No comments were submitted in response to the proposed rule.

II. References

(1) United States Pharmacopeia 23/ National Formulary 18, United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 834–835, 1994.

(2) ''Solutions Using Mixed Solvent Systems: Spirits, Elixirs, and Extracted Products,'' in *Sprowls' American Pharmacy*, 7th ed., J. B. Lipincott Co., Philadelphia, pp. 100–101, 1974.

III. The Agency's Final Conclusions

The agency is adding new § 328.10(f) to state: ''Ipecac syrup is exempt from the provisions of paragraph (d) of this section.'' This means that ipecac syrup may contain more than 0.5 percent alcohol even though labeled for use by children under 6 years of age. Also, the agency is redesignating current § 328.10(f) as § 328.10(g).

IV. Analysis of Impacts

No comments regarding the economic impact of the proposed rulemaking were received.

FDA has examined the impacts of this final rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this final rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the final rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

Under the Regulatory Flexibility Act, if a rule has a significant impact on a substantial number of small entities, an agency must analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this final rule has no effect on the OTC marketing of ipecac syrup drug products, it will not impose a significant economic burden on affected entities. Therefore, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Commissioner of Food and Drugs certifies that the final rule will not have a significant economic impact on a substantial number of small entities. No further analysis is required.

V. Environmental Impact

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 328

Drugs, Labeling, Alcohol.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 328 is amended as follows:

PART 328—OVER-THE-COUNTER DRUG PRODUCTS INTENDED FOR ORAL INGESTION THAT CONTAIN ALCOHOL

1. The authority citation for 21 CFR part 328 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 505, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 355, 371).

2. Section 328.10 is amended by redesignating paragraph (f) as paragraph (g) and by adding new paragraph (f) to read as follows:

§ 328.10 Alcohol.

* * * * *

(f) Ipecac syrup is exempt from the provisions of paragraph (d) of this section.

* * * * *

Dated: November 5, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–29387 Filed 11–15–96; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 510

New Animal Drugs; Change of Sponsor Address

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor address for Alstoe, Ltd., Animal Health.

EFFECTIVE DATE: November 18, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: Alstoe, Ltd., Animal Health, 19 Foxhill, Whissendine, Oakham, Rutland, U.K. has informed FDA that it has changed its address to Granary Chambers, 37–39 Burton St., Melton Mowbray, Leicestershire LE13 1AF, England. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the new address.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) in the entry for ''Alstoe, Ltd., Animal Health'' and in the table in paragraph (c)(2) in the entry for ''062408'' by removing ''19 Foxhill, Whissendine, Oakham, Rutland, U.K.''

and by adding in its place ''Granary Chambers, 37–39 Burton St., Melton Mowbray, Leicestershire LE13 1AF, England''.

Dated: October 29, 1996.

Andrew J. Beaulieau,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 96–29388 Filed 11–15–96; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Tylosin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove that portion reflecting approval of a new animal drug application (NADA) held by Countrymark Cooperative, Inc. (formerly Indiana Farm Bureau Cooperative Association, Inc.). The NADA provides for use of a tylosin Type A medicated article for making a tylosin Type C medicated swine feed. In a notice published elsewhere in this issue of the Federal Register, FDA is withdrawing approval of the NADA.

EFFECTIVE DATE: November 29, 1996.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1722.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the Federal Register, FDA is withdrawing approval of NADA 125–226 held by Countrymark Cooperative, Inc., 950 North Meridian St., Indianapolis, IN 46204–3909 (formerly Indiana Farm Bureau Cooperative Association, Inc., 120 East Market St., Indianapolis, IN 46204). The NADA provides for use of tylosin Type A medicated articles to make tylosin Type C medicated swine feeds. Countrymark Cooperative, Inc., voluntarily requested withdrawal of approval of the NADA because it no longer makes Type A medicated articles for use in medicated feeds. This document removes the entry in 21 CFR 558.625(b) to reflect the withdrawal of approval of this NADA.

This NADA was originally held by Indiana Farm Bureau Cooperative Association, Inc. The regulations had not been amended in § 510.600(c) (21 CFR 510.600(c)) to reflect the sponsor change to Countrymark Cooperative. At this time, Indiana Farm Bureau Cooperative Association is no longer the sponsor of any approved NADA's. Therefore, § 510.600(c) is amended to remove the entries for the firm.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) by removing the entry for ''Indiana Farm Bureau Cooperative Association, Inc.,'' and in paragraph (c)(2) by removing the entry for ''021502.''

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.625 [Amended]

4. Section 558.625 *Tylosin* is amended by removing and reserving paragraph (b)(76).

Dated: October 18, 1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96–29389 Filed 11–15–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

42 CFR Part 413

[BPD–805–CN]

RIN 0938–AG68

Medicare and Medicaid Programs; New Payment Methodology for Routine Extended Care Services Provided in a Swing-Bed Hospital; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction notice.

SUMMARY: This document corrects the final rule published October 3, 1996 (61 FR 51611) that revised the methodology for payment of routine extended care services furnished in a swing-bed hospital. The final rule also revised the regulations concerning the method used to allocate hospital general routine inpatient service costs for purposes of determining payments to swing-bed hospitals.

EFFECTIVE DATE: These corrections are effective as of November 4, 1996.

FOR FURTHER INFORMATION CONTACT: John Davis, (410) 786–0008.

SUPPLEMENTARY INFORMATION: We are making the following corrections to the October 3, 1996 final rule (61 FR 51611):

1. On page 51612, in the first column, fourth line from the bottom, the duplicate word ''harmless'' is deleted.

2. On page 51612, in the third column, lines 16 and 17, the phrase ''ending on or after June 30, 1989 and through May 31, 1990'' is corrected to read ''ending on or after June 30, 1989 through May 31, 1990''.

3. On page 51615, in the third column, lines 30 and 31, the phrase ''we are changing to the out method'' is corrected to read ''we are changing to the carve-out method''.

4. On page 51616, in the first column, under Subpart D, item number 2, the amendatory language is corrected by adding the phrase ''the introductory text of paragraph (a)(1)(ii);'' after the phrase ''Section 413.53 is amended by revising''.

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance Program; No. 93.778, Medical Assistance Program)

Dated: November 7, 1996.

Neil J. Stillman,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 96–29398 Filed 11–15–96; 8:45 am]

BILLING CODE 4120–01–P

Administration for Children and Families

45 CFR Parts 1355, 1356, and 1357

RIN 0970–AB34

Foster Care Maintenance Payments, Adoption Assistance, Child and Family Services

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), HHS.

ACTION: Final rule.

SUMMARY: This final rule amends existing regulations concerning comprehensive child and family services under titles IV–B (Child Welfare Services) and IV–E (Federal Payments for Foster Care and Adoption Assistance) of the Social Security Act. The rule, prepared in response to the enactment of the Family Preservation and Support Services Act in 1993, provides direction to the States and eligible Indian Tribes in accomplishing two goals: establishing comprehensive community-based family support programs and short-term crisis-intervention family preservation programs, and working across the child and family services system to design a continuum of services responsive to the diverse needs of families and children.

EFFECTIVE DATE: December 18, 1996. This rule contains information collection requirements in Sections 1357.15 and 1357.16 which are subject to review and approval by OMB. The information collection requirements in these sections will not become effective until they are approved by OMB and assigned a valid OMB control number. A document will be published in the Federal Register which contains the valid OMB control number for these requirements.

FOR FURTHER INFORMATION CONTACT:

(1) Carol W. Williams, Associate Commissioner, Children's Bureau, Administration on Children, Youth and Families

Or

(2) Daniel H. Lewis, Deputy Associate Commissioner, Children's Bureau, Administration on Children, Youth and Families, Telephone (202) 205–8622 or (202) 205–8618

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

Title IV–B was added to the Social Security Act in 1935 to provide Federal formula grants to States to establish, extend and strengthen child welfare services. Major changes to the authorizing legislation were later made under the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96–272), to prevent the unnecessary separation of children from their families; improve the quality of care and services to children and their families; and, ensure permanency for children through reunification with parents, through adoption, or through another permanent living arrangement.

Over the last 15 years, however, social, cultural, and economic changes have frustrated efforts to meet these goals. Increased numbers of families coming to the attention of child welfare agencies with problems of ever-increasing severity coupled with rising rates of child abuse and neglect reports, have resulted in an overwhelmed child welfare system. Unable to keep up with these increased demands, constrained by resource limitations and overburdened workers, service planning has largely been limited to activities that focus on crisis intervention and not prevention and treatment.

Acknowledging that the system was not working for some of our most vulnerable children and their families, Congress amended title IV–B in August, 1993, under the Omnibus Budget Reconciliation Act of 1993, Public Law 103–66. A new program, entitled family preservation and family support services, added as title IV–B, subpart 2, provides States and eligible Indian Tribes with new Federal funding for preventive services (family support services) and services to families at risk or in crisis (family preservation services).

This legislation set aside funds for planning in fiscal year 1994 as the basis for the development of a five-year comprehensive services plan. This planning effort also provided States and local communities and eligible Indian Tribes the opportunity to review their current strategies for meeting the service needs of children and their families, identify service gaps and barriers to coordination of services, and develop a plan for providing a continuum of services to families and their children.

The FY 1994 appropriation for this new program (subpart 2) was $60 million. Of this amount, $2 million was reserved for Federal evaluation, research, and training and technical assistance; $600,000 was reserved for grants to Indian Tribes. The balance was available for grants to States to fund planning and services for family support and family preservation.

For FY 1995, the authorization increased to $150 million. Of this amount, $6 million was reserved for Federal evaluation, research, and training and technical assistance and $1.5 million for grants to Indian Tribes. A new program of grants to State courts was initiated at a funding level of $35 million for FYs 1995–1998. The balance is available for grants to States for family preservation and family support services.

Shortly after the legislation was enacted, ACF convened a series of focus groups to learn about family preservation and family support services. Using information obtained from these discussions and building on existing literature, four goals for family support and family preservation services were identified:

- The safety of all family members must be assured.
- These programs should serve to enhance parents' ability to create safe, stable, and nurturing home environments that promote healthy child development.
- To assist children and families to resolve crises, connect with necessary and appropriate services, and remain safely together in their homes whenever possible.
- To avoid the unnecessary out-of-home placements of children, and help children already in out-of-home care to be returned to, and be maintained with, their families or in another planned, permanent family.

Based on these goals and other lessons learned through the focus groups, we issued a notice of proposed rulemaking on October 4, 1994 (59 FR 50646) to implement the new family preservation and family support provisions of the statute and integrate this new focus into a comprehensive continuum of child and family services.

The statute specified that five-year plans were due June 30, 1995 from all States and eligible Indian Tribes in order to receive Federal funding. Over the past two years, ACF has committed substantial resources to the provision of technical assistance to States and Tribes to assist in the development of these plans and the implementation of these provisions. Regional and national conferences, State and locality-specific interventions, our Regional Offices and Resource Centers all have assisted States and Indian Tribes during this period.

II. Summary of Major Changes in the Final Rule and Discussion of Major Issues

We received 80 letters of public comment regarding the Notice of Proposed Rulemaking (NPRM) from Federal, State and local agencies and governments; national, State, and local child and family service and advocacy organizations; and other interested parties. Over 150 of the specific comments within these letters were in total support of portions of, or the entirety of, the proposed rule.

The vast majority of commenters were extremely supportive of the NPRM and the focus group process employed in its development. The input from families, practitioners, researchers, and advocates is reflected in this rule and affirms the importance of collaboration and cooperation. The Administration for Children and Families is committed to using this inclusive process as a model approach in implementing future statutory changes of this nature.

Commenters noted that the tone of the NPRM captured the intent and spirit of the legislation. In particular, they cited support for the joint planning and consultation process and the importance of the flexibility provided which allowed States and Indian Tribes to prepare their plans to meet the needs of local communities. Strong support was voiced for the vision to achieve improved outcomes for children and families by helping States, Indian Tribes, and communities apply the principles of family support and family preservation across all child and family service programs.

Many commenters voiced support for the NPRM's emphasis on positive, supportive, and cooperative relationships between at-risk families and service providers and building on family strengths. They spoke to the importance of this rule in helping States expand the frontiers of child abuse treatment and prevention and strengthen the goals of family preservation and family support.

This final rule reflects the Department's honoring State and Tribal discretion in many areas of program administration. Through our experience in administering title IV–B and through our consultation with experts in the field, we have learned that flexibility in approach, along with strong outcome standards, is key to designing successful programs at the State and Tribal levels.

With this rule, we lay a framework by setting certain basic principles, standards, and processes while at the same time allowing for State and Tribal flexibility in accomplishing these goals.

Many commenters requested model Child and Family Services Plans (CFSPs), model goals and objectives, or a more extensive list of required stakeholders to the process. Despite these request for greater specificity and detail in various provisions of the rule, we remain committed to offering States and Tribes maximum flexibility in designing the content of their Child and Family Services Plans.

We have relaxed requirements where we have been too prescriptive. For example, we have relaxed the requirements of § 1357.15(1)(3)(viii) Consultation to allow for States and Tribes to determine the best set of specific stakeholders to participate in the design of their Child and Family Services Plans, offering an extensive suggested list. This section as a whole still requires a critical list of essential consultation partners to the decision-making process.

Technical revisions were made throughout the rule to: (1) Change the reference of section 427 to 422(b)(9) in accordance with Pub. L. 103–432; (2) reflect changes made in the Child Abuse Prevention and Treatment Act (CAPTA) as amended by the Child Abuse Prevention and Treatment Act Amendments of 1996, Pub. L. 104–235, which was signed into law on October 3, 1996: The CAPTA changes reflect that there is only one program, the Child Abuse and Neglect State Grant program, instead of two programs, and citations to specific sections have been corrected; and (3) change the title IV–A and IV–F references in the rule to reflect the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub.L. 104–193).

We have maximized flexibility in the fiscal area to facilitate the provision of family support services by encouraging the involvement of community-based organizations. The matching requirements for title IV–B programs have now been revised to allow States and Indian Tribes to meet the non-Federal program cost matching requirements using cash or in-kind contributions, including those that are donated. We made this change (consistent with existing regulations governing grants at 45 CFR 92.24) in response to compelling arguments in favor of this policy put forth by nearly 30 commenters. We feel strongly, and commenters agree, that this change was imperative to supporting broader opportunities for partnership with community-based organizations and critical to full implementation of the goals of family preservation and family support programs.

The prohibition of all in-kind contributions was perceived as a real barrier to the active involvement of communities. Non-Federal share may now include real estate and real property, volunteer time (at standard rates), and limited professional time for service delivery (at standard rates).

There was, however, dissent from this overall support of in-kind matching. There was concern that, from a budget and internal control perspective, the use of an in-kind match may lead to disallowances resulting from mismanagement. The administrative oversight, monitoring, and validation of documentation is resource intensive. Some commenters suggested that a determination on the allowability of in-kind contributions should be made on an individual State/Tribe basis to allow in-kind contributions only where funds are not otherwise available. It was argued that this safeguard would ensure that in-kind contributions are not used to shift resources away from children's services (in cases where financial revenues available to meet the matching requirements are not a problem). As a result of this concern, one that we share, we have added a component to the Joint Planning definition (§ 1357.10 (c)) to provide for Federal/State or Federal/Tribal consultation around fiscal issues such as matching.

A. Consolidation

With this rule, we require consolidating the planning and reporting requirements for title IV–B programs with information included from the Independent Living Program (ILP) and the Child Abuse Prevention and Treatment Act (CAPTA) program. Consolidation of plan requirements is imperative to the development over time of a comprehensive child and family service system which is accessible, coordinated, flexible, built on and linked to community services and supports, and able to serve children and their families in a more effective and responsive way.

The two title IV–B programs are being consolidated for several reasons: Child welfare services and family preservation and family support services are both a part of the child and family services continuum; both services are administered by the same agency and address common problems of the same population of children and families; input from the field, supported by commenters on the proposed rule, urged us to consolidate the plans, application requirements, and program reporting, where possible, and to reduce duplicative administrative burdens on States and Tribes.

Consolidation of the plan does not affect title IV–B, subpart 1 or ILP funding. In fact the practical consequence of submitting one plan is that in addition to paperwork reduction, the plan will be submitted three months prior to the start of the next fiscal year meaning that title IV–B, subpart 1 and ILP funds would be received earlier.

Information included from the ILP and the CAPTA program will facilitate ongoing coordination, consultation, and joint planning efforts among these programs and assist States to move toward a more comprehensive service delivery system. States and Indian Tribes are encouraged to include additional child and family services programs in the CFSP, at their option, to increase program integration.

We believe that comprehensive child and family services cannot be developed without considering information on services under CAPTA and the ILP. States still have the option of submitting the application for ILP with the CFSP or separately. If the State elects to submit the ILP application separately, information about the ILP must be contained in the CFSP.

Major changes have been made to CAPTA since the NPRM was published. There is now a requirement for a 5 year CAPTA State Plan to be coordinated, to the extent practicable, with the CFSP. Currently, we are reviewing the new requirements for CAPTA in an effort to consolidate these State Plans. The CFSP must contain information on the CAPTA program, however, we will work to ensure that there are not duplicate information requirements for these two Plans.

Opinions regarding consolidation were decidedly mixed. There was a significant positive reaction to consolidation and calls for an even more inclusive plan incorporating all services (health, mental health, education, etc.) under the jurisdiction of Federal and State agencies.

Whereas we heard strong support for consolidating the title IV–B, subparts 1 and 2 plans, suggestions were advanced that the process for inclusion of subpart 1 not be total consolidation, but independent development and inclusion of information. Difficulties were identified in producing an expanded plan with funds for only one portion of that plan. The fear was that this expansion would undermine quality in the planning process and service system development.

Alternative proposals involved suggestions under which the family preservation and family support services five-year plan and the subpart 1 plan can be considered as separate elements of the overall CFSP and separately approvable on their own merits. However, a vast majority of commenters supported consolidation and we have decided to retain the consolidated plan requirement and suggest that our phase-in option (described below) and joint planning with the ACF Regional Offices should allow for any approval concerns a State or Indian Tribe may have to be resolved.

Some felt our position on consolidation was expansive and went beyond the statute by including CAPTA information. Some commenters did not believe information on ILP and CAPTA programs should be included in the CFSP since separate plans or applications will continue to be necessary.

Other commenters stated that while it seems useful to include information from the various programs in the plan it is not clear what future directions this would take since the populations served may be different. The commenters suggested that the final rule encourage maximum integration and coordination when those efforts enhance achievement of program goals.

Additionally, it is our view that the populations served by CAPTA and title IV–B and IV–E are indeed the same. While CAPTA provides preventive and protective services to children at risk of abuse or neglect, it is child welfare services which are provided for the care of children abused or neglected.

States will face challenges in implementing the new vision. The availability of technical assistance and the maintenance of flexibility will be vital to successful implementation. We believe that the rule is in keeping with statutory intent and will provide States and Indian Tribes with an effective strategy for providing a continuum of services to children and their families.

B. Phase-In

Closely related to the process and degree of consolidation is the issue of the timeframe within which a comprehensive plan must be developed. We have relaxed the requirements for plan consolidation to allow for a phase-in approach to the requirement. States and Indian Tribes will now have an extra two years (until June 30, 1997) to complete the consolidated planning requirements. Consolidation is complex and time-consuming. We want to support State and Tribal implementation to ensure that it is done thoughtfully and gradually, allowing time to work through the complications that are sure to arise and produce a quality working process.

We believe this strategy does not compromise either the intent or the spirit of the statute and the NPRM since it has always been our position that the process of planning, coordination, consultation, and goals and objectives setting is an on-going process which reaches beyond initial development of the plan. This added flexibility, coupled with the technical assistance which has been made available since issuance of the proposed rule, should eliminate any roadblock to full and successful implementation.

A number of factors were considered that led to this decision to phase in consolidation. There was a great deal of concern expressed by commenters about the expansive nature of the Child and Family Services Plan and State and Indian Tribe capacity to meet all the requirements by the June 30, 1995 submission date. Concerns centered around the timeframe for implementation as unrealistically ambitious. These commenters recommended that additional time be provided, especially to incorporate components of the child welfare service system into an integrated planning process. However, we want to clarify that a consolidated CFSP does not necessarily allow for pooled funding among the programs mentioned, inasmuch as separate funding streams and accountability are still required by statute.

With respect to any State or eligible Indian Tribe that elects the phase-in option, the plan submitted in June 1995 should have included information describing how the State or Indian Tribe is engaged in and will continue to be engaged in comprehensive planning and development of the consolidated plan encompassing the continuum of child and family services.

States and Indian Tribes choosing this option will be required to submit a consolidated plan with the submission of their second annual progress and services report on June 30, 1997. States and Indian Tribes have already made significant strides toward meeting these requirements.

C. Continuum/Linkages

The most effective means of serving children and families is to have a delivery continuum which directly provides and links with a wide variety of supports and services.

Throughout the rule we make references to this continuum and other related service systems. Respondents to the proposed rule expressed confusion about this terminology. We would like to clarify that, as used in this rule, the child and family services continuum

refers to the publicly-funded State child and family services continuum; including family support and family preservation services; child welfare services, including child abuse and neglect prevention, intervention, and treatment services; and services to support reunification, adoption, kinship care, foster care, independent living, or other permanent living arrangements.

This continuum is inclusive of all services provided under titles IV–B, IV–E, and CAPTA and is linked to other service support systems (e.g. health, mental health, education, etc.) to allow children and families to access services they need when they need them and as their needs change. Our primary focus in this rule is to support and build the capacity of the child and family services continuum. We do encourage, however, strong linkage with other systems that affect and serve the same population.

There was some preference for the use of the term ''system of care'' instead of ''continuum'' in the definition of Child and Family Service Plan (CFSP). These commenters also called for a definition of child and family services continuum, or the child and family services system of care, which incorporates the principles in § 1355.25. They asked that the definition make clear that the term does not refer to a prescribed sequence of services but rather an array of services or a system of care that ensures that families and children will have access to services and support as their needs change.

''Continuum'' is not used in the sequential sense or to imply that children and families must otherwise progress from one step to the next. Families may enter and exit at any point in the continuum. We have not added a separate definition of the continuum in the regulatory language because we believe that the parenthetical list included within the definition of the Child and Family Services Plan sufficiently defines the range of services included.

Some commenters expressed confusion by stating that the rules were weakened by expecting the State child welfare agency to be responsible for other sectors and federally supported State agencies, questioning what the linkages to other agencies should entail. One commenter was concerned that the description of the service continuum leaves out critical health, economic and educational services.

The requirement for coordination of the provision of services with other Federal and federally assisted programs serving children and families is derived from statute. This rule does not add any new responsibility for these other programs to the child welfare agency but rather, in an effort to improve the well-being of children, youth and families, we encourage program coordination among related programs to provide a holistic approach to services.

However, we recognize that the issue of coordination among various programs points to the need for similar regulations and policies in other Federal programs and agencies and we have been working to develop relationships across programs for effective service linkages.

More specificity was requested with regard to how States and Tribes are expected to nurture linkages. The term ''linkages'' as used throughout the rule means some method of joining or coordinating two otherwise separate entities or sets of services. We have not provided specific linkage criteria in order to allow States and Tribes maximum flexibility to meet their unique needs for planning and designing services.

D. Safety

Family preservation services were viewed by some as potentially jeopardizing the safety of children and it was suggested that the preamble statements, ''If a child cannot be protected from harm without placement, family preservation services are not appropriate'' and ''Family preservation does not mean that the family must stay together or be preserved under all circumstances'' be included in the regulatory language itself. This recommendation was seen as helping to put to rest the often-raised ''child protection versus family preservation'' argument and dispelling the myth that this new funding availability is a powerful financial incentive for child welfare workers and agencies to preserve the family unit at the expense of child safety.

We maintain that family preservation services are only appropriate in certain circumstances. It is true that some of the children who come into State care cannot be left safely in their homes. Whether in the child's home or in substitute care, a child's safety should never be compromised. A family preservation program is only one of a number of strategies to address the issue of safety for children.

An underlying tenet of child and family services is the protection and security of children as expressed in the principles under 45 CFR 1355.25(a). Because a number of comments addressed this issue, we revised the definition of family preservation at § 1357.10(c) to provide that family preservation services are also designed ''to protect children from harm * * *'' and to state unequivocally that safety is paramount in the principles at § 1355.25(a).

We would argue that this new legislation and funding is not an incentive for child welfare workers and agencies to preserve families at the expense of child safety but rather creates the exact opposite result. By providing new funds with an emphasis on prevention and treatment, there is a greater likelihood that children will be better protected and have more service options available for protection than presently exist in most States and Tribes.

E. Indian Tribes

In FYs 1994 and 1995 41 Indian Tribes were eligible for direct funding under title IV–B, subpart 2. In FY 1996, more Indian Tribes were eligible for direct funding and were notified of their eligibility and of the application process. New Tribes which become eligible for this funding beginning with FY 1997 may submit either an application for planning funds or submit a five year plan. If a Tribe elects to submit an application for planning funds, those funds will be awarded with no match requirement in the first year of funding. We are committed to providing full support for planning consistent with the process used in the first year of funding for the originally funded States and Indian Tribes.

If a Tribe chooses to forego the planning process, it may submit a five year plan immediately on June 30 of the year in which the Indian Tribe expects to be funded. In this case, the Tribe would be subject to the match requirement for services funding.

We have accepted recommendations from Indian Tribes and other Indian advocacy groups to exempt the Tribes from certain statutory requirements. This exemption authority is based on the Secretary's discretion in section 432(b) of the Act to exempt any provision in section 432 that is determined to be inappropriate to Indian Tribes, taking into account the resources, needs, and other circumstances of the Indian Tribe. In paragraph (f), the Indian Tribes are exempted from three statutory requirements: the ten percent limit on administrative costs, the non-supplantation provision, and the requirement that a significant portion of funds must be used for both family preservation and family support services.

We received many comments regarding the Indian Child Welfare Act of 1978 (ICWA). It is our responsibility

to ensure that all State plans comply fully with the statutory mandates of ICWA, particularly the requirements for Tribal notification and the order of preferences for out-of-home placements involving ICWA eligible children and permanency planning. We issued a Program Instruction (ACYF–PI–CB–95–12 released August 11, 1995) that specifies reporting requirements and procedures related to the statutory requirement that States report on measures they have taken to comply with the Indian Child Welfare Act. Additionally we plan to address compliance issues, including ICWA, in a separate rule on the subject of child and family services monitoring.

We received requests for funding for Tribal consortia serving two or more Tribes and requests that the term ''federally recognized Tribes'' rather than ''Indian Tribal Organizations'' be used. We are bound by statute and have no authority to fund consortia under subpart 2. The language ''Indian Tribal Organization'' is also taken directly from the statute.

F. Disabilities

We received many comments expressing concern that the proposed rule did not speak expressly to the needs of parents and children with developmental disabilities and that the final rule include, throughout, specific mention of programs, services and support for preservation of families affected by disabilities. Related to this, another commenter questioned how the rule treats the provision of mental health services and services to children with developmental disabilities and the role of child welfare agencies in this regard.

We are aware of the special needs of families in which a child or other family member has a disability or has other special needs such as for mental health services. We believe that services should be designed and made available to all families, including families with disabilities, but we did not specifically identify any populations in order to avoid excluding any particular groups or individuals. We deliberately sought to provide enough flexibility for States and eligible Indian Tribes to design programs that would be responsive to the unique needs of the children and families in a particular State. We would underline the fact that the Americans with Disabilities Act requires accessibility to services by the disabled; this accessibility should accommodate both physical and emotional needs of the disabled.

III. Section-by-Section Discussion of Comments

The Department would like to express its gratitude to the many concerned individuals and organizations which took the time to prepare thoughtful and invaluable comments to our NPRM. The comments were very substantive and meaningful and we considered them seriously in preparing this final rule.

1. Part 1355—General

Section 1355.10 Scope

This section contains general requirements applicable to both title IV–B and title IV–E of the Social Security Act and is applicable to Indian Tribes, as well as States, unless otherwise specified.

Comment: Several commenters requested that the scope of the rules be revised to include a funding set-aside for Alaskan Native Organizations and Native Hawaiian Organizations.

Response: The statute defines the eligible grantees individually under titles IV–B and IV–E. While we are sympathetic to the concerns expressed, we have no statutory authority to require such a set-aside.

Section 1355.20 Definitions

This section provides general definitions taken from statute of the Federal entities responsible for administration of child welfare programs, and of eligible grantees.

Comment: Some commenters were concerned that the definition of ''State agency'' required that the titles IV–B and XX agency be the same.

Response: The definition of State agency derives from statute and we have no authority to change or waive this definition in this final rule. However, as indicated in the definition, there is some flexibility provided based on a State's pre-December 1, 1974 organizational structure. From a programmatic standpoint, we also note that in many States, title XX funds are used in support of child and family services.

Section 1355.21 State Plan Requirements for Titles IV–B and IV–E

This section is written to conform to the new requirements and clarify that the five-year CFSP and the Annual Progress and Services Reports, along with the title IV–E State Plan, must be made available for public review and inspection.

No comments were received on this section and therefore no changes are being made to the language proposed in the NPRM.

Section 1355.25 Principles of Child and Family Services

These principles, most often identified by practitioners and others as helping to ensure effective services, emphasize the paramount importance of the safety of all members of the family, including victims of child abuse and neglect and victims of domestic violence and their dependents. The service principles address the need for permanency for all children; the importance of accessibility, flexibility, and coordination; and cultural competence.

In addition, the principles provide guidance in bringing about changes in State, local, and Indian Tribal child and family service delivery. In response to comments on the proposed rule, accountability to clients and the community has been added.

As stated in the proposed rule, we reiterate that ''family preservation'' does NOT mean that the family must stay together or ''be preserved'' under all circumstances, or at the expense of the safety and well-being of the child.

Comment: One commenter asked that we continue to distinguish between the principles of child and family services as guidelines and the required CFSP vision, goals and objectives. The commenter believed that States should view these principles as an important communication tool to educate the public about the child and family services plan vision, goals and objectives and suggested that this be encouraged in the rule.

Several commenters suggested that the principles be cross-referenced throughout the rule and that States be required to articulate in their vision statement, the relationship between the principles and the goals and objectives and each year to specify in their annual progress and services reports the gains being made to bring the system into accord with the principles.

Response: We have retained the principles as guidelines (not requirements) but have revised § 1357.15(g), to provide that the vision statement should reflect the child and family service principles.

Comment: Some commenters recommended that the introductory paragraph to this section state explicitly that the principles apply not just to family support and family preservation but to the entire range of child and family services, including reunification, adoption, and kinship care.

Response: We believe that both the title of this section and the introductory paragraph clarify that the principles apply to all child and family services. In

response to these comments, we have made a technical revision to the introductory language in § 1355.25 to provide that the principles provide guidance allowing for improvements in the continuum of services.

Comment: One commenter thought the principles should note that the active involvement of different minorities and linguistically diverse groups in the planning and ongoing operation of services is an integral part of a community-based service system. This commenter suggested that States be required to specify how the principle of cultural and linguistic competence will be reflected in the vision and goals as well as in other areas. This commenter recommended that annual reports should specify the progress made in bringing the system more into accord with the cultural competence principle.

Response: We agree with the importance of actively involving minorities and linguistically diverse groups. We have adjusted the language at § 1357.15(l) Consultation, paragraph (3)(iv) to reflect that importance because it is in this section that the States and Tribes must commit to the inclusion of a broad range of stakeholders in their decision-making processes. States and Tribes may review annually their plan's consistency with the cultural competence principle as this would be an appropriate check for active involvement. However, this level of detail would not be necessary for reporting to ACF.

Comment: Two commenters asked that the NPRM be revised to make clear that domestic violence prevention is integral to a system of care for children and families. Alternatively, another commenter suggested that § 1355.25(a) be revised to recognize that some risk-taking with children and families is necessary by providing ''* * * when safety can reasonably be assured and risk of harm minimized.''

Response: We believe the rule is clear that domestic violence prevention, identification, and intervention is of prime importance to child and family safety. The importance of these issues is indicated by their inclusion in the very first principle of assuring the safety and well-being of children and all family members. In fact, we have strengthened this principle to emphasize that one important way to keep children safe is to stop violence in the family including violence against their mothers. With respect to the second comment, while risk assessment is critical, we believe that a discussion of risk-taking would undermine our emphasis on working with the strengths of a family.

Comment: Some commenters were concerned that the language in paragraph (d) relevant to service focus is overly inclusive and confusing. They did not believe that family preservation and family support funds should be spent on services that are otherwise available. Another commenter suggested that this section might better state that services may be crisis-oriented, short-term interventions, or longer term services necessary to meet the needs of the family and the individual who may be placed in out-of-home care. Other commenters suggested that it would be more appropriate if the language spoke to the needs of the child and family, rather than the needs of the family and best interests of the child.

Response: We agree, in part, and have revised the language of paragraph (d) to provide that services may focus on prevention, protection or other short or long term interventions to meet the needs of the family and the best interests and needs of the individual(s) who may be placed in out-of-home care. We believe that the principle stated in paragraph (d) is intended as a statement of holistic services to children and families, whatever their needs may be.

Comment: A number of commenters suggested that the language in paragraph (e), related to accessibility, should be strengthened to say services are ''*principally* delivered in the home or community.'' Another commenter suggested that language be included to recognize the importance of timely services.

Response: We support the alternative language offered and have revised the language in paragraph (e) to provide that services are timely as well as flexible, coordinated, accessible and principally delivered in the home or community.

Comment: Many commenters felt that the language in paragraph (f) was subject to serious misinterpretation and should be revised. These commenters were concerned that the services listed parenthetically (e.g., housing, substance abuse treatment, mental health, etc.) were inaccurately portrayed as outside the continuum of child and family services.

Response: We agree that the services and supports listed parenthetically are part of the service systems to which the child and family service continuum must be linked since they are all necessary for families to be able to support and nurture their children, and we have revised this paragraph to remove the parenthesis as well as the reference to ''outside the system.''

Comment: A number of commenters suggested that the language in paragraph (g) be strengthened to provide that services are accountable to the community and to clients in meeting needs and demonstrating successful outcomes. Several commenters also asked that we revise the language of this paragraph to provide that ''most'' services are community-based rather than ''many.''

Another commenter suggested that the reference to community-based services in paragraph (g) be cross-referenced to the definition of community-based services in § 1357.10(c) to clarify that community-based means that the services are accessible and responsive to the needs of the community and the individuals and families residing therein.

Response: We agree that accountability is of paramount importance to ensuring successful services. We have revised the language by adding at the end, ''are accountable to the community and the client's needs.'' We revised the language to affirm that most child and family services are community-based. However, we did not make any changes in response to the last comment because we believe the guiding principles should stand alone and be regarded as introductory and applicable to the rule as a whole.

Section 1355.30 Other Applicable Regulations

This section provides an updated and corrected list of other regulations applicable to titles IV–B and IV–E.

In the NPRM, we limited the § 205.10 fair hearing provisions to title IV–E foster care and adoption assistance, excluding title IV–B. This limitation was an error, noted by several commenters, and § 205.10 now applies to all programs under title IV–B and IV–E of the Act. The language of paragraph (c) has been changed to conform to the provisions of the most recent amendments to 45 CFR Part 74.

Comment: One commenter asked that we add to the list, Part 35, Nondiscrimination on the Basis of Disability.

Response: The applicable regulation for all Departmental programs is 45 CFR part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance and is listed at paragraph (g).

Comment: One commenter was concerned that in paragraph (k), exclusion of ILP from § 95.1, would be detrimental to the State's program. According to the commenter, if the State were forced to submit a final report within the 90 day timeframe, the State would have to shorten its ILP program by 3 months.

Another commenter stated that currently ILP and title IV–B funding is subject to the two-year claiming limitation and restricting this to a maximum of one year following the year in which the funds were awarded would present a significant problem in how claims can be processed and would not allow for full use of the funds.

Response: This policy does not represent a change. The statute is explicit in section 477(f)(3) of the Act that ILP funds must be expended by September 30 of the fiscal year following the fiscal year they were awarded.

2. Part 1356—Requirements Applicable to Title IV–E

Section 1356.10 Scope

This section introduces the requirements applicable to the Independent Living Program.

No comments were received on this section and therefore no changes are being made to the language proposed in the NPRM.

Section 1356.80 Independent Living Program

This section summarizes the statutory provisions applicable to this program.

No comments were received on this section and therefore no changes are being made to the language proposed in the NPRM.

3. Part 1357—Requirements Applicable to Title IV–B

Section 1357.10 Scope and Definitions

This section sets out key definitions of the major programmatic areas under title IV–B. For example, the definition of ''Child Welfare Services Plan (CWSP)'' now reflects the broader, more comprehensive scope and content of the ''Child and Family Services Plan (CFSP).'' Within this definition, we include a definition of the child and family services continuum. We have added the term ''permanency'' to the definition of the Child and Family Services Plan in the final rule because it had been inadvertently omitted in the NPRM.

In response to comments, we changed the definitions of ''child welfare services'' and ''family preservation services'' to provide greater emphasis on the importance of child and family safety. The definition of ''family preservation services'' also was expanded from the statutory definition to reflect the provision of concrete services which can be a key part of the family preservation services package. We revised the definition of ''family support services'' to include transportation services which provide access to key services.

Additionally, we felt it necessary to clarify the definition of ''Joint planning'' to emphasize an ongoing partnership process between ACF and an Indian Tribe or State for the review and analysis of child and family services, including analysis of the service needs of children, youth, and families; selection of unmet service needs that will be addressed; and development of goals and objectives that will result in improved outcomes for children and families and the development of a more comprehensive, coordinated and effective child and family services delivery system.

Comment: Several commenters asked that § 1357.10(b), Eligibility, be revised to specify that States may charge fees (on a sliding scale basis) for services to families in higher income categories to promote broader and more equitable distribution of services. Alternatively, another commenter stated the belief that charging for services would be contrary to statute. This commenter urged, however, that if an income-based standard is adopted, care be taken to look beyond the face of the family assets since families may possess financial resources to which children at risk and battered women may not have access.

Response: We have chosen to leave this issue to State discretion. We would, however, urge any State which chose to charge fees to be especially cognizant of the point made by the commenter opposed to such fees.

Comment: Several changes were recommended in the definition of child welfare services, for example, the word ''handicapped'' be replaced with ''individual with disabilities;'' the word ''and'' be added after the phrase ''identifying family problems'' in clause (3); and substituting the phrase, ''in cases where the child cannot be returned home'' for the phrase ''in cases where restoration to the biological family is not possible or appropriate'' in clause (5).

Other commenters suggested that the definition of child welfare services recognize family violence. Another commenter asked that the definition of child welfare services be revised to read ''Reuniting with their families, children who have been removed and may be safely returned by the provision of services to the child and the family.''

Response: The NPRM used the definition of child welfare services taken from section 425 of the Social Security Act which includes language as originally enacted in 1935. We have revised the definition of child welfare services in § 1357.10(c) in three ways: To replace the reference to ''handicapped'' with ''individuals with disabilities'' in clause (1); to place greater emphasis on child and family safety in clauses (1) and (4); and to reflect the natural progression of services by reversing the order of clauses (5) and (6). We believe the rule taken as a whole emphasizes child and family safety and recognizes family violence, specifically in § 1355.25.

Comment: One commenter suggested that the definition of ''Children'' in paragraph (c) is not consistent with current Federal and State statutory definitions of a dependent child and was concerned that the proposed definition could be interpreted to require that all title IV–B services must be available to persons between the ages of 18 and 21.

Response: We agree and have revised the definition to recognize that State law on age of majority or State policy will dictate whether services will be provided to those between the ages of 18 and 21 years for title IV–B services.

Comment: One commenter thought that the definition of ''Family'' should include actual primary caretakers for children, recognizing the variety of family structures, whether or not they are biological relatives.

Response: We believe that the definition provided in the proposed rule is sufficiently broad to cover all possible family arrangements and have not changed this definition.

Comment: Several commenters asked that we revise the definition of ''Family preservation services'' to place more emphasis on family case planning. Other commenters suggested that the definition of family preservation was too vague, failing to emphasize concrete services; that dollars for respite care be fairly allocated between the parents and the foster family; and that the reference to improving parenting skills is too limiting, since this is the only definition concerned with parents' needs, the focus should be on enhancing parental caretaking capacity.

Response: This definition is based in statute. We have made only one substantive revision to this definition and added a new paragraph (6) to recognize that family preservation services include ''case management services designed to stabilize families in crisis such as transportation, assistance with housing and utility payments, and access to adequate health care.'' This provision is incorporated in several of the CFSPs submitted in June, 1995 and is considered to be an important means of assisting families in crisis. The joint planning process is expected to forestall improper use of program funds.

We have not made any changes with respect to respite care because we believe that the allocation of dollars should be a State determination.

Comment: Also with respect to the definition of ''family preservation services,'' commenters suggested that in the interest of clarity, the order of pre-placement preventive services and reunification/adoption/independent living services be reversed.

Response: In response to these comments, we have reversed the order of paragraphs (1) and (2).

Comment: One commenter asked that the definition of ''family support services'' be revised to provide ''coping with limited resources'' rather than ''family budgeting.''

Response: The family support services definition is based in statute. We believe the existing language more appropriately emphasizes long term success with the language ''family budgeting.''

Comment: One commenter asked that the definition of ''Joint planning'' be revised to state, ''Joint planning is a process of discussion, consultation, and negotiation between the parties, and Federal technical assistance that must occur for the Child and Family Services Plan to be approved and for the development and approval of the Annual Progress and Service Reports.''

Another commenter expressed agreement that Regional office staff should be involved, but was concerned that it would be inappropriate for regional staff to usurp the State's decision-making authority regarding development of the plan.

Response: In response to these comments, we have expanded the definition of joint planning to clarify the partnership and positive aspects of working together. There is no question that the State maintains final decision-making authority regarding the development of the plan.

Section 1357.15 Comprehensive Child and Family Services Plan Requirements

Paragraphs (a) through (v) of § 1357.15 contain the requirements for the development of the comprehensive five-year Child and Family Services Plan (CFSP). The paragraphs cover discrete topics such as general provisions related to scope, eligibility for funds, and required assurances; specific content of the CFSP, including a vision statement, goals, and objectives; requirements for the description of services to be provided, the populations to be served, and the geographic areas to be targeted; specific proposals for the planning process leading to the development of the CFSP; and other provisions focused on the continuum of services, permanency planning efforts, and other statutory requirements.

We received both general and specific comments on the CFSP requirements. General comments on the requirements were addressed under section II of the preamble. The more specific comments are addressed in the following paragraphs.

Comment: We received comment requesting the guidance provided in the preamble of the NPRM under this section be incorporated into the rule. The commenter pointed out that the State planning groups would benefit from further clarity on key components of the Child and Family Services Plan.

Response: The preamble language is designed to provide further clarity to the rule. A rule is intended to make clear the requirements for implementing a program. We would recommend that planning groups utilize the preamble language when they develop their CFSP and the Annual Progress and Services Report.

Section 1357.15(a) Scope

In response to comments, we made two revisions to this section. One revision adds a new paragraph (a)(4) to allow a phase-in approach for consolidation of the plans for IV–B, subparts 1 and 2, including the information on CAPTA and the ILP. This approach will allow States and Indian Tribes sufficient time to complete the planning and consolidation process.

The first sentence of this paragraph has also been revised to acknowledge the benefits of consolidation by adding that the State's CFSP is an opportunity to establish a system of coordinated, integrated, culturally relevant, family focused services.

Comment: One commenter asked that we play a larger role in analyzing and disseminating the CFSP. The commenter felt that States would probably be interested in knowing how the process was working elsewhere and recommended that we consider developing a mechanism for sharing information with the States to facilitate a process whereby they serve as expert resources to one another.

Response: We are very sensitive to States' desire for nationwide information sharing and, toward this end, have concentrated on establishing an information clearinghouse, exploring additional training and technical assistance strategies as well as sharing State experiences at various national conferences and from national evaluations.

Section 1357.15(b) Eligibility for Funds

This section specifies the eligibility requirements for receipt of funds under title IV–B, subparts 1 and 2. Several changes were made to this section. Three new paragraphs have been added, and language was added to paragraph (b)(1), specifying the time frame for a phased-in approach of the CFSP, as discussed in section II of this preamble.

In addition, in order to provide additional clarification on what must be submitted, the new language incorporates the CFS–101 forms. Also, several improvements have been made in the Annual Summary of Child and Family Services (CFS–101, Part II) form published in the NPRM based on several comments. The CFS–101 will be distributed annually with guidance on submission and the States' allotment for title IV–B funds.

In response to comments we have made revisions to the CFS–101, including consolidating the budget request for subparts 1 and 2 onto one page. The information collected on the CFS–101, Part II includes information that was previously collected on the CWS–101 and the new requirements for the collection of family preservation and support services information as required by statute and 45 CFR 1357.15(n)(3).

Comment: One commenter recommended that the final rule be revised to require States and Indian Tribes to earmark funds for grantees currently operating a successful Family Support Community Development Program to continue receiving funds beyond the two-year grant period ending September 29, 1995. The reason for this continuation is the extension of funding would allow grantees to focus on developing a 1–5 year self-sufficiency program for targeted AFDC clients to transition off welfare and become self-sufficient.

Response: Based on our commitment to State flexibility, there is nothing to prohibit States from taking this action.

Section 1357.15(c) Assurances

Under § 1357.15(c), the CFSP must contain the assurances applicable to both title IV–B programs, now listed here. Once signed by the appropriate official, the assurances will remain in effect on an ongoing basis (not just during the period of the five-year plan) and will need to be resubmitted only if significant changes in the State's or the Indian Tribe's program affect an assurance. This section has been expanded to be responsive to commenters and include all assurances relating to programs covered under the CFSP.

Comment: The sole respondent asked that the rule specify the list of assurances applicable to title IV–B, subpart 1 and 2.

Response: The comprehensive list has been incorporated here and into the CFSP requirements. As the NPRM stated, we provided States and Indian Tribes with a comprehensive listing of assurances in a Program Instruction issued June 8, 1995 (ACYF–PI–CB–95–17) to facilitate the submission of the five year plans in the absence of a final rule. At this time, the assurances have all been incorporated into this final rule.

Section 1357.15(d) The Child and Family Services Plan: General

Section 1357.15(d) provides that the CFSP must be developed based on three important planning activities: Broad involvement and consultation; coordination of the provision of services under the plan with other Federal and federally assisted programs serving children and families; and collection of existing or available information to develop opportunities for bringing about more effective and accessible services for children and families.

Comment: A number of commenters were concerned with the relative vagueness of the coordination requirement and wanted a more precise list detailing the Federal programs that should be coordinated. Several respondents suggested a cross-reference to the listing of programs at § 1357.15(l)(3)(viii).

Response: The regulatory language is not being changed because this section is intended to generally encourage coordination across Federal programs. In § 1357.15(l) virtually all of the programs mentioned by the respondents are identified.

Comment: Four commenters wanted parental involvement clarified to include parents of children who have been directly involved with the child welfare system.

Response: Language has been revised in § 1357.15(d)(1) to clarify that the requirement for consultation with parents should involve those who have direct experience with the child welfare agency.

Section 1357.15(e) State Agency Administering the Programs

This section outlines which State agency is to be responsible for title IV–B administration.

Comment: One commenter asked that we specify that the organization chart include the name of the State agency's designated coordinators for Section 504 of the Rehabilitation Act and the Americans with Disabilities Act.

Response: We are committed to providing maximum flexibility in this rule and have not requested this level of specificity in any submission.

Section 1357.15(f) Indian Tribal Organization Administering the Program(s)

This section outlines the requirement for submission of the name and description of the organization responsible for administering the title IV–B programs.

No comments were received on this section and therefore no changes are being made to the language proposed in the NPRM.

Section 1357.15(g) Vision Statement

The new focus on family-based services and community linkages requires changes in vision, philosophy, and in the design and delivery of child and family services. In order for States and Indian Tribes to develop a realistic yet forward looking CFSP, we believe that they must first set forth their vision in providing services to children and their families.

Comment: Many commenters wanted stronger connections made between the Vision Statement and other elements of the CFSP.

Eight commenters requested a stronger linkage between the vision and related goals and objectives and the principles set forth in § 1355.25. Several of the eight respondents suggested cross-referencing the sections. One commenter asked that demonstration grants be awarded to States to make the link.

One commenter wanted to have the CFSP vision and related goals and objectives specify how the principle of cultural and linguistic competence will be accomplished. In a similar vein another respondent wanted the vision to incorporate diverse populations.

One respondent wanted to see baseline data tied more closely to the development of the vision, goals and objectives in the CFSP. At the same time, the commenter wanted the final rule to acknowledge both the expectations and the real limits of the planning process resulting in the development of the CFSP.

Response: The request for greater linkage of the Vision Statement with other sections of the CFSP is valuable. We encourage all States and Indian Tribes to make thematic and content connections. The comments have resulted in the adding of a requirement that the vision must reflect the child and family service principles described at § 1355.25. No other regulatory changes to this section are being made.

Comment: Two respondents raised issues about how to apply the Vision Statement.

One respondent questioned whether the Vision Statement will be more than an affirmation of ideals and become a basis for measuring success as well as a basis for holding legislators and administrators accountable.

Another commenter proposed that each service provider under the plan accept the vision statement.

Response: The Vision Statement is one critical aspect of the CFSP that provides States and Indian Tribes with the opportunity to create a positive and futuristic general image of how they will organize their child and family service system, who it should serve, what services are needed, and how those services will be delivered. The baseline data, goals, and objectives, that flow from the Vision Statement, and are a part of the CFSP, will establish the basis for measuring success and accountability. All States and Indian Tribes are encouraged to work toward reaching consensus with their particular set of service providers regarding the vision statement, since that will significantly contribute to the successful implementation of the CFSP.

Comment: Two commenters spoke to the importance of cultural issues in relation to the Vision Statement.

One commenter wanted to make sure the vision specified how principles of cultural and linguistic competence would be achieved.

The second respondent emphasized how important it was for diverse populations to be involved in the development of the vision.

Response: In § 1355.25(e) the importance of cultural factors in the design and delivery of child and family services is recognized. As noted above, a requirement that the vision must reflect the service principles at § 1355.25 has been added. It is our expectation that States and Indian Tribes will forge visions which lead to the creation and management of culturally sensitive and culturally competent programs and practices.

Section 1357.15(h) Goals

In order to translate a vision into service delivery systems, States and Indian Tribes must build on their vision statement and philosophy and develop goals for the next five years. Goals must be stated in terms of improved outcomes for the safety, permanency and well-being of children and families and in terms of the development of a more comprehensive, coordinated, and effective child and family service delivery system. We have added the

term ''permanency'' to the goals language in the final rule because it had been inadvertently omitted in the NPRM.

Comment: Four commenters supported the goal setting activity and pointed out how important it was for goals to be established in order to improve outcomes, reform service delivery, evaluate performance, and determine effectiveness.

Response: The value of quality goal setting within the context of the CFSP cannot be underestimated. It represents a commitment by the State or Indian Tribe to accomplish certain efforts during the CFSP five-year timeframe and is a statutory requirement. In order to reinforce this time orientation, the phrase ''and by the end of'' is being added to § 1357.15(h).

Comment: Four commenters identified the challenges and complexities inherent in the goal setting task.

One noted that indicators of child and family well-being don't change that rapidly and are affected by external factors beyond existing policies and programs.

Another cautioned that accurate information was not abundant and this could make the creation of ''real'' goals difficult.

One respondent pointed out that this is a new activity for States, and there will be a reluctance to a push for quick goal setting.

Finally, one commenter acknowledged the challenges around setting goals and asked for additional regulations to help guide the process.

Response: Establishing goals is a demanding and essential activity and remains crucial to States and Indian Tribes keeping track of their progress and accomplishments. Feedback from focus groups ACF conducted and comments received in response to this section of the NPRM affirmed the salience of goal setting. The NPRM was sensitive to the fact that States and Indian Tribes possess varying degrees of proficiency regarding goal setting, and an emphasis on making use of reliable and valid baseline data should contribute to the development of ''real'' goals. Moreover, States and Indian Tribes will have the opportunity to make revisions to their goals on a yearly basis. In order to allow States and Indian Tribes substantial discretion in developing goals consistent with their vision and philosophy, it would not be appropriate to generate additional regulations in this area.

Although we are not providing additional regulations in this area, we thought the following example of a permanency goal, objectives, and indicators would be helpful:

Permanency Goal: Ensure permanency for children in foster care through timely placements in permanent homes.

Objectives: To increase by [x] percent the proportion of children who exit the foster care system through reunification, guardianship, or adoption within two years of placement.

To increase by [x] percent the proportion of children with special needs who are adopted annually.

Measures/Indicators

- The number of children who exit foster care through reunification, guardianship, or adoption provided through AFCARS data.
- The number of children with special needs who are adopted annually provided by AFCARS.

Comment: Several commenters addressed issues related to the breadth and emphasis of the goals themselves.

A respondent asked that the goals be expressed in terms of outcomes and the same respondent along with another commenter asked that the goals encompass matters of economic stability and independence.

A commenter argued that where applicable the goals should be specified for any targeted groups.

A commenter listed a set of issues such as substance exposed newborns, teen pregnancy rates, infant mortality, immunization rate, etc., which should be incorporated into the goals.

Response: ACF agrees that goals should be expressed in terms of outcomes. While outcomes addressing issues such as economic stability and independence, infant mortality, and teen pregnancy rates are important, ACF is currently emphasizing the outcome areas of safety, permanency, and well-being of children and families to measure child and family services. Specific outcomes will be discussed in greater detail in future regulations addressing the child and family services review process. State and Tribal discretion in developing specific goals based on philosophy, vision statement, and unique factors or circumstances must be preserved. Within this flexible framework States and Indian Tribes have the freedom to establish goals targeted to particular groups.

Comment: Three commenters either made requests for modifying the content in this section or questioned whether any modification was possible.

One commenter requested that § 1357.15 (h)–(k) be merged into one section in order to strengthen integration among goals, objectives, and indicators of progress.

One respondent encouraged the inclusion of content from a particular document, developed by a non-governmental organization with expertise in family preservation and family support, on the topic of planning for family preservation and support service programs.

One commenter wanted to know if the goals specified in the preamble to the NPRM were the official set of goals and whether goals other than those listed were acceptable.

Response: There are a number of valuable documents that have been published by various organizations which States and Indian Tribes may find useful as they plan, revise and implement their five-year plans. States and Indian Tribes are encouraged to make use of all materials which they find suitable. Goals, objectives, measures of progress and baseline information have been treated in separate sections to ease understanding and emphasize the importance of each element in the CFSP. However, as explained later, the language in § 1357.15(j), Measures of Progress, has been revised to better link the measurement criteria to the accomplishment of goals and objectives. The goals set forth in the preamble to the NPRM are for illustrative purposes only. State and Indian Tribes have the latitude to develop goals germane to their situation.

Section 1357.15(i) Objectives

With a focus on outcomes for children, youth, and/or families or on elements of service delivery in the CFSP, objectives should include interim programmatic benchmarks, dates of accomplishment and a long-term timetable, as appropriate.

We recommend that family preservation and family support services be targeted on populations and in geographic areas of greatest need. Targeting may include a range of vulnerable populations (children, youth and/or families) in specific geographic regions, counties, cities, communities, census tracts, or neighborhoods. States should also consider targeting services to support community-based strategies which draw on multiple funding streams and which bring a critical mass of resources to bear in high-need communities.

Comment: Several commenters addressed the geographic scope of implementation of family preservation and family support services as spelled out in the Objectives section and reflected in the delivery of services. One

respondent called for making the requirements Statewide. Another commenter emphasized focusing on geographic areas and populations with the greatest need.

Response: There will be no change in regulatory language. There is no requirement that services be Statewide, although States are encouraged to move in that direction. States and Indian Tribes will retain authority to target in a manner they deem most appropriate.

Comment: We received four comments to our request on the advisability of developing model plan guidelines. Two commenters asked that we not issue model guidelines. Instead, they suggested ACF further support planning efforts by developing ways to encourage the State planning process to meet child and family service plan objectives and goals. Alternatively, two commenters indicated that model guidelines would be of great assistance.

Response: In light of the few comments received and our desire to provide maximum flexibility, we have decided not to pursue the development of model plan guidelines. However, we will continue to work in a collaborative partnership with States and Indian Tribes. A comprehensive technical assistance contract was awarded in 1995 to assist States and Indian Tribes in the development and implementation of the CFSP. In addition, we will continue to provide in-house technical assistance as part of the joint planning provisions to assist States and Tribes in developing and implementing the CFSP. While we will not publish model plan guidelines, we will disseminate exemplary State and Indian tribal plans that can be used as models.

Comment: One commenter asked that objectives be required to determine progress, as well as promote monitoring and ongoing assessment.

Response: We feel the existing regulatory language on objectives, when combined with the annual progress reports, will accomplish this.

Comment: Several commenters were concerned by various elements of the examples provided in the preamble to the proposed rule. One commenter recommended that we state instead, ''reduce the number of children removed from poverty and/or substance abusing families through the use of family support type services.''

Another commenter suggested that example 3, which speaks to reducing the number of reports of child abuse and neglect cases involving serious injury be revised to insert the word ''substantiated'' before ''report,'' citing the concern that the number of reports should not be used as a negative benchmark.

Still another commenter criticized the example objectives as very traditional and narrow that might encourage people to think in black and white and lead to bad practices. This commenter recommended we provide instead examples that are more ''non-traditional'' and that focus on elements of service delivery that are linked to outcomes in important ways. Finally, one commenter noted that the examples provided were all related to children and families and questioned whether objectives related to system changes would be acceptable as well.

Response: The respondents' comments are well taken and may be of assistance to other States in pursuing their objectives. However, since they speak only to the examples of objectives provided in the preamble of the proposed rule for illustrative purposes only, we are not making any changes to the rule at paragraph (i) of § 1357.15. States and Indian Tribes should establish objectives which reflect their own priorities, funding decisions and strategies for providing child and family services. However, we would like to highlight the importance of establishing objectives which focus on outcomes for children, youth and families or on elements of service delivery and system change that are linked to outcomes. We strongly believe that outcome based goals and objectives allow the State an opportunity to obtain better information about the safety, permanency and well-being of children and families.

Comment: Two commenters suggested technical changes to the language provided at paragraphs (i) (1) and (2) of § 1357.15. The first asked that we revise the language in (1) to add that the objectives focus on elements of service delivery including staff competencies and staff workloads and in paragraph (2) to add reference to improving the quality of existing services. The other commenter suggested in paragraph (1) that we should change the wording from ''each objective *should* focus on outcomes'' to ''*must* focus on outcomes,'' since should fails to convey the necessary imperative.

Response: While we have no problem with the technical language raised by the commenters in the first two instances, we are not adding this language to the rule. We believe the rule is sufficiently broad to support these examples and should remain broad enough to allow States and Indian Tribes flexibility to set their own objectives. The rule will remain unchanged with regard to the focus on outcomes in developing objectives. A focus on outcomes is not required, but certainly encouraged.

Section 1357.15(j) Measures of Progress

In response to comments we received, we have added a statement that the State, in its CFSP must assure that the data and information to measure progress will be collected, organized and analyzed in a quality manner, and that the data and information will ensure States' and Indian Tribes' ability to gauge progress towards achieving their goals and objectives.

Depending on the goals, objectives, and outcomes selected, measuring progress may be based, in part, on quantifiable indicator data (e.g., numbers of substantiated child abuse and neglect reports) or on the results of activities such as monitoring mechanisms, quality assurance efforts, other information collection activities, other planning processes, and internal evaluations.

Comment: Several respondents dealt with the relationship between information systems and measuring progress.

One commenter suggested that the initial outcome measures be the establishment of systems (SACWIS/AFCARS/NCANDS) and description of processes.

Another commenter noted that SACWIS will not be fully operational in time to gather baseline and program data. The same commenter noted that outcome evaluation/quality assurance determinations will be derived from SACWIS when it is operational and States will need increased flexibility on the part of the Department when demanding additional data.

Response: With respect to the first comment, unless the design and implementation of automated information systems is a specific plan goal, it cannot be viewed as appropriate indicators of progress toward meeting goals, objectives and outcomes of the CFSP, but rather as eventually a source for obtaining data and information to determine progress.

This rule has been written to provide States and Indian Tribes with the necessary flexibility to determine how they will measure progress and collect quantifiable data. While States are making enormous strides in developing and implementing automated information systems and there is a need to support and encourage these actions, we agree that these systems will not be operational in time to collect and report baseline data, and it will take a while before they are capable of ascertaining progress.

Comment: Two respondents considered factors related to the quality of the measures of progress.

One commenter recommended that the requirements of this section should go further and require the grantee to demonstrate the validity of the measure of progress it has chosen suggesting that we add: ''The CFSP should describe how the measurement criterion selected to assess each goal and objective can be expected to gauge accurately the progress toward achieving that goal or objective.''

Another commenter expressed concern that measures must be realistic and attainable.

Response: We agree and the regulatory language has been revised at § 1357.15(j) by adding a second sentence to incorporate their suggestions.

Section 1357.15(k) Baseline Information

In order to properly measure, monitor, and adjust activities, States and Indian Tribes must assemble baseline data, drawing first on what is existing and available. The specific collection of service data is important, and central to the CFSP development and implementation process.

The following suggestions of possible indicators of child and family well-being and service delivery status will be useful for setting goals and objectives, for targeting services geographically and to priority populations, for detailed service planning, and for assessing progress. Although these examples were included in the proposed rule, due to substantial interest in them from the public, we are repeating them here.

(1) *Examples of indicators on child and family well-being:* Number of substantiated reports of child abuse and neglect, percent of children born addicted or drug exposed, reducing child fatalities, incidence of domestic violence, number of children in out-of-home care, number of children in psychiatric placements, number of children awaiting adoption, and youth in stable living situations after exiting foster care.

(2) *Examples of indicators related to other services systems:* Percent of low birth-weight babies, percent of births that are to single teens, teen pregnancy rate, immunization rate, percent of children in poverty, percent of children in single-parent families, percent of families receiving title IV–A, runaway and homeless youth rate, child/youth suicide rates, juvenile violent crime arrest rate, teen violent death rate, percent of teens not in school and not in labor force, percent of teens graduating from high school on time, high school dropout rate, and percent of eligible children in Head Start.

(3) *Examples of indicators on the State's (or the Indian Tribe's, as appropriate) service delivery capacity:* The extent to which child welfare, family preservation, and family support services are available and being provided (e.g., number and percentage of families served, waiting lists, etc.); the availability of out-of-home care and placement (including adoption) resources; the availability of prevention and intervention services; the availability of critically needed services such as housing and substance abuse treatment; the extent to which existing services are coordinated with the provision of other child and family services, particularly child protective services and independent living services (e.g., indicators of successful referrals); and the funding resources and expenditures, geographic availability, numbers of persons served, and insufficient service capacity (unmet needs) related to these services.

(4) *Examples of indicators States or Indian Tribes, as appropriate, might use or seek to develop relating to strengthening the delivery of services and accomplishing goals and objectives:* The extent to which resources are available for training, technical assistance, and consultation, including leadership development, staff development, and interdisciplinary training; the existence and utilization of quality assurance measures, program development and management and data analysis; and the implementation, expansion, and utilization of management information systems.

Comment: Several commenters responded to the value and importance of baseline information and what constitutes sufficient information and on the range of services needed by families being served by family preservation and support services including social, health, educational, and economic services. One respondent called for the gathering of information on all programs intended to meet the needs of families. One commenter argued that the identified needs should reflect ''real'' family concerns. In contrast, another commenter suggested that consideration be given to eliminating the baseline information collection requirement. Several commenters wanted clarification as to how much information is adequate and how the State and Indian Tribe and/or ACF will determine how much is enough.

Response: There is a statutory requirement for States and eligible Indian Tribes to develop a five-year plan with goals and objectives and to review progress towards meeting those goals and objectives on a yearly basis. Information obtained from focus groups and respondents' comments have emphasized the importance of baseline data to developing responsive goals and objectives. In keeping with the approach of flexibility, we are not setting requirements regarding specific baseline information to be collected, except for our condition in § 1357.15(k)(3) that information about existing family preservation and family support services must be included. The determination of what constitutes adequate baseline information and specific family preservation and family support information for a particular CFSP will be made in the context of the joint planning process.

Clarification on what is acceptable documentation for submission by Indian Tribes is being provided by adding the following sentence to § 1357.15(k)(2): ''An Indian Tribe may submit documentation prepared to satisfy the requirements of other Federal child welfare grants, or contracts (such as the section 638 reporting form), along with a descriptive addendum addressing specifically the family preservation and family support services available.

Comment: We received several responses to the request in the NPRM for public comment on the proposed indicators and the usefulness of defining indicators more concisely so that uniform definitions can be developed.

One commenter felt the suggested indicators were comprehensive, covered the priority areas, and that more concise definitions were not needed.

One commenter noted that specific guidelines would be preferable at some point in the future when all involved parties have more knowledge.

Another commenter recommended that a few indicators be selected and required across states, with other information remaining optional.

An additional respondent asked for flexibility, especially at the outset of the process.

Response: The comments we received have convinced us to maintain flexibility in this aspect of the proposed rule. No specific baseline indicators will be mandated and there will be no attempt to establish uniform definitions. The AFCARS and SACWIS should capture necessary national data and it serves no useful purpose to duplicate those requirements in this rule. States and eligible Indian Tribes will have full discretion in identifying, operationalizing and employing

baseline data elements responsive to their CFSP.

Comment: Several commenters were concerned that the breadth of information and unreasonable amounts of detail required for the five-year plan is burdensome.

One respondent pointed out that the prolific information being requested will be disorganized and the accuracy of the information dependent upon the sources of the information.

Among the commenters who raised the burden issue, one suggested a less detailed summary be used as an alternative for Federal purposes such as the review by regional offices during ongoing joint planning meetings between ACF and States and Tribes.

Another respondent argued for narrowing the focus of data collection on unmet needs, while a third called for selecting some representative services that are statewide, but keeping the data at the State level for review and not passing it on to the Federal government.

One respondent noted that data collection poses a particular burden for all Tribes, especially small ones, considering the modest amount of funds available to them under title IV–B, subpart 2. The respondent proposed that Tribes be allowed to submit data they collect for their Indian Child Welfare Act 638 reports with a description of additional services that will or have been provided or personnel employed through the use of additional title IV–B funding.

Response: We do not wish to place a burden on States or Indian Tribes to expend excessive energy and resources on preparing and presenting copious amounts of data. Nor do we wish to over-burden the joint planning process with an exhaustive review and analysis of data. Therefore, we have clarified paragraph (k)(3) to specify that a *summary* of the information used in developing the plan must be included. We expect States and Indian Tribes to conduct appropriate data collection activities to thoroughly and accurately inform their planning efforts.

We agree with the recommendation to reduce the reporting burden on Tribes and have amended paragraph (k)(2) to provide that Indian Tribes may submit other documentation, such as the 638 reporting form, with a descriptive addendum addressing specifically the family preservation and family support services available, as described above.

Comment: A number of commenters raised cost issues in relation to baseline data.

One commenter expressed concern that the costs associated with collecting baseline data would be counted as an administrative cost and subject to the 10 percent cap.

Another commenter wanted to know if there would be additional funding to cover research or administrative costs associated with hiring professionals to identify and collect baseline data.

One respondent wanted flexibility regarding data collection in order to reduce costs.

One commenter argued that States may well confront tough decisions when trying to decide how to pay for the costs of data collection and this could lead to a number of complications.

Response: Given the fact that the baseline information process is integral to the development of the CFSP, we have modified § 1357.32(h)(3) to confirm that data collection is viewed as a program cost as it is a part of the preparation of the CFSP and is not subject to the 10 percent administrative cap limitation.

In light of our decision to allow a data collection process responsive to the unique needs of each jurisdiction and a summary submission of data in the CFSP, both of which are based on existing and available data, we believe any and all costs associated with baseline information will not place an undue financial burden on any State or eligible Indian Tribe.

Comment: A number of comments addressed the role of automated information systems in relation to baseline information. Several respondents saw the merits and urged continuation of the emphasis on requiring States to develop and use automated information systems to ensure availability of baseline data. Several commenters noted that the preamble speaks to systems being designed (SACWIS) that may serve as a source of valuable information, but were concerned that States may not have their systems operating in time to be a source of baseline data for the development of the CFSP. One of the commenters urged ACF to give the States flexibility when additional data is required.

Response: We fully recognize the value and importance of automated information systems to improve programs and practices and feel we have instituted flexible policies and regulations designed to increase their usage and improve their operation throughout the child and family service system. We recognize that a State's SACWIS may not be operational in time to provide baseline data for the first five-year plan. In fact, not all States plan to develop a SACWIS. However, AFCARS should eventually be available to provide additional and updated data necessary to measure progress during the five-year period in accordance with § 1357.15(k)(1).

Comment: Several commenters dealt with the relationship between targeting and baseline data.

One commenter noted that the preamble speaks to targeting services to certain populations and/or geographic areas and asked, if services are targeted, whether targeted data collection would be allowed.

Another commentator suggested that language be included to allow States or Indian Tribes which may concentrate resources in a few targeted communities to use community-level rather than state-level data to track the process.

Several respondents suggested that the requirement that states gather and update statewide information on child and family well-being and on availability of services be clarified to explain that baseline data should help guide initial decisions about targeting and serve as the basis for tracking progress over time.

Response: A statewide or Tribal collection and analysis of data is necessary in order to conduct the strategic planning process and develop goals and objectives as spelled out in § 1357.15 (a) and (b) and to target service decisions. In paragraph (k)(2) of § 1357.15, we have required the State or Tribe to collect and analyze data on a Statewide or Tribal-wide basis only for Family Preservation and Family Support Services. However, if services are targeted, the focus of on-going data collection and analysis likely will be in those targeted areas in order to ascertain progress in accomplishing plan goals and objectives. Targeted data collection is acceptable and appropriate in these instances, provided that this data is collected with overall statewide information.

States and Indian Tribes also have an ongoing responsibility to keep a current statewide or Tribal-wide baseline data base in order to keep apprised of emerging problems, new populations experiencing new challenges, groups currently being served who are experiencing new challenges, and to track trends over time. These inevitable changes will likely result in modifications to the CFSP over its five-year life span.

Comment: Several commenters asked that we delete what was perceived as a vague statement in this section, ''other services which impact on the ability to preserve and support families may be included in the assessment'', and instead require baseline data on the full range of services needed by at-risk

children and families; specifically including mental health services, substance abuse services, etc.

Response: No changes are being made. The statement interpreted by commenters as being vague was intended as an acknowledgement of the enormous variety of programs and services in different State and Indian Tribes and a means of providing both groups with sufficient discretion to determine appropriate data sources. The request to require baseline data on the full range of services needed by at-risk children and families would be overly prescriptive. States and Indian Tribes are encouraged to include the collection of data from service systems other than the child and family service continuum, but it is not being required.

Comment: Several commenters addressed different facets of categorizing the baseline information.

One commenter suggested that States be required to gather baseline data on child and family well-being and service delivery capacity that is grouped by indicator specific to minority groups as well as information on the appropriateness of training, technical assistance, consultation and quality assurance of service delivery capacity for specific targeted groups.

Another commenter wanted to make sure that the categories of baseline information used in developing the plan be cited.

A respondent asked that the rule explicitly state certain categories of baseline information that must be included.

Response: The suggestions made by the respondents are reasonable and appropriate. Nevertheless, given the enormous diversity among States and Indian Tribes in terms of the needs of their various child and family populations, the services they are providing, as well as how they are organized to deliver the services to those in need, we are resistant to specifying categories of information or precise indicators that must be included. The categories of indicators cited in the preamble of the proposed rule and reiterated here are only meant to be illustrative. Each State and Indian Tribe with the ACF Regional Office will determine the appropriate schema for categorizing its baseline information.

Comment: One commenter indicated more technical assistance will be needed in this area since activity is likely to become fragmented.

Response: ACYF implemented a significant five-year technical assistance initiative in fiscal year 1995 which involved funding a set of national resource centers and a technical assistance coordination contractor. States and Indian Tribes seeking assistance will be able to receive it by working with ACF and resource center staff.

Comment: A commenter recommended using positive language for our examples of indicators such as using ''reducing child fatalities'' as opposed to ''child death rate''.

Response: This is an excellent suggestion and we encourage all States and Indian Tribes to consider the commenter's recommendation about adopting a more positive orientation as they develop labels for their indicators.

Section 1357.15(l) Consultation

We received 22 comments to this section. Overall, the remarks were positive, expressing endorsement for the use of broad-based consultation with the public and private sectors.

As a condition of CFSP approval, Section 432 requires that the plan be developed by the State and the Indian Tribe after consultation with a wide range of appropriate public and nonprofit private agencies and community-based organizations with experience in administering services for children and families (including family preservation and family support services). In this section we are requiring States and Indian Tribes to describe their consultation process and we have included suggested lists of groups that may be involved in the process.

The Department believes that States and Indian Tribes will benefit from a broad, active consultation process in strengthening the planning and implementation of the CFSP. In keeping with State flexibility we have not mandated either a particular consultation process or a specific list of entities with which States and Indian Tribes would be required to consult.

We believe the suggested categories of participants in the consultation process provided in paragraph (l)(3) represent a minimal level, mandated by section 432(b) of the statute, of programmatic, political/administrative, and experiential involvement in this process. We continue to encourage States and Indian Tribes to go beyond the suggested list and include other categories of organizations and individuals based on State and local circumstances.

Comment: Three commenters raised concerns regarding the list of suggested agencies to be involved in the consultative process. The concerns focused on what happens if a State fails to consult with each of the groups listed and that the list of actors was overly prescriptive and unnecessarily creates monitoring and compliance issues. It was felt that recommendations would be helpful but a defined list will not assure meaningful involvement.

A related comment suggested that in order to ensure that the range of consultative groups are seriously and consistently consulted, States should be held accountable for how and to what extent they included each category in the planning process. It was also suggested that we could clarify the different forms that consultation can take and that ACF include a requirement for a clearly defined beginning, middle and end to the consultation process.

Response: While the consultation process and a wide range of appropriate public and nonprofit private agencies and community-based organizations with experience in administering services for children and families are required by statute, we believe States and Indian Tribes should retain flexibility to determine both the form and the intensity of consultation and participation by various groups. Also, as stated above, the list is a suggested list and, while we feel all groups should be involved, we are not mandating that each one must be consulted. We would hope that over time each group will be brought into the process.

With respect to mandating a specific process for consultation with distinct closure, we have intentionally left this open to provide flexibility for such processes to be ongoing and to be developed at the State/Tribal level.

Comment: Several commenters asked that we amend paragraph (l)(3)(vii) to strongly emphasize the vital role that courts and legal advocates play in service planning. Specifically, they suggested that we replace ''the courts'' with ''Representatives of the court systems (including, in States receiving grants under section 13712 of Pub. L. 103–66, a designee of the highest State court), attorneys representing parents, children and the State agency in dependency cases; and any guardian ad litem or court-appointed special advocate (CASA) programs operating in the State.''

Response: We believe the existing references provided to courts, individual practitioners working with children, and law enforcement support our recognition of the important role of the judiciary and legal systems. We agree with the commenter and we encourage the states to consider seriously the merits of the involvement of the legal realm.

Comment: Many comments suggested additional specific categories of

required consultation, i.e., protection and advocacy organizations, professional organizations, Children's Trust Funds, mental health and developmental disabilities agencies, youth agencies which have not traditionally provided child welfare services, replace the general reference to ''housing program'' with reference to specific, ''State agencies with regulatory authority over federally funded local housing agencies, State agencies administering section 8 housing programs, State housing financing agencies and State fair housing agencies,'' the local chapter of the American Academy of Pediatrics, and pediatricians among major actors listed to encourage States to include a family support and prevention focus in the planning process. One commenter argued that collaboration was the mainstay of this rule and they were perplexed at the lack of mention of the Community-Based Family Resource Program. This commenter believes it is critical that the Federal government seek to unify these potentially polarizing initiatives and provide guidance to the States through example.

Response: These are excellent suggestions, and we urge states and Tribes to consider them in the on-going consultation process. However, we have made three changes based on these comments. First, we have revised paragraph (l)(3)(viii) to include, as suggested by the commenters, the Children's Trust Funds and the Community-Based Family Resource Program in the list. The Community-Based Family Resource Program and the Family Preservation and Family Support programs are linked by common purpose and approach to serving children and families. Both programs are administered by ACYF with maximum coordination at the Federal level. The Community-Based Family Resource Program was not specifically mentioned in the NPRM as it had just been enacted. The program was reauthorized under Pub. L. 104–235, the Child Abuse Prevention and Treatment Act Amendments of 1996 which was signed into law on October 3, 1996. FY 1995 was the first year grants were made to States for this program. The other changes are technical corrections. One is to provide for ''IV–F'' employment and training. The other change removes redundant language in the introductory sentence, changing ''including, but not limited to,'' to ''which may include:''.

Comment: Three commenters suggested that the CFSP be required to address measures to prevent planning groups and committees from being dominated by agency officials and private service providers such as by limiting public and private agency personnel to no more than 50 percent. Another commenter suggested that the final rule be clear about the level of involvement appropriate for each of the actors.

Response: We believe that to limit the number of consultation partners in the final rule would represent a significant departure from our commitment to provide flexibility. However, we would note that the rule does provide States wishing to do so with sufficient flexibility to determine the intensity of participation.

Comment: One commenter asked that in paragraph (l)(1) we add that information be included that facilitates the active, informed involvement of parents and children previously impacted by the social service delivery system within the State.

Response: Parental involvement is addressed in paragraph (l)(3)(iv), thus additional language is not necessary here. However, in response to this comment, we have amended the language to include children involved with, and children not involved with, the child welfare system.

Section 1357.15(m) Services Coordination

Service coordination is critical to the improvement of access and appropriate delivery of a range of services to children and their families.

Examples of services and programs are:

- Within the State agency: Existing family support and family preservation; child abuse and neglect prevention, intervention, and treatment; foster care, reunification, adoption, and independent living services, and
- Other public and nonprofit private agencies, including community-based organizations, which provide Federal or federally assisted services or benefits.

Examples of major programs are: The social services block grant; title IV–A; child support; maternal and child health; title XIX (Medicaid, Early Periodic Screening, Diagnosis, and Treatment (EPSDT)); mental health and substance abuse services; Community-Based Family Resource programs and child abuse prevention (Children's Trust Funds); transitional living; runaway youth and youth gang prevention; education; developmental disabilities; juvenile justice; early childhood education and child development programs (Head Start); domestic violence; housing; nutrition (Food Stamps, Special Supplemental Food Program for Women, Infants and Children (WIC)); child care and development block grant and other child care programs; the community services block grant; Empowerment Zones and Enterprise Communities program (EZ/EC); education (school-based services); and justice programs.

Comment: We received several comments to expand the list of service delivery providers here to include advocacy services, the mental health and developmental disabilities services system and the State agencies with regulatory authority over housing.

Response: In paragraph (m)(1) we have clarified those organizations which may be involved in the planning process by adding additional examples in parentheses.

Comment: Several commenters thought that more guidance should be provided here and the purpose of the coordination requirement made explicit. One of these commenters was concerned that without greater specificity regarding goals, service coordination will continue to be secondary and out of step with the ''holistic approach'' to serving children envisioned. This commenter suggested that the CFSP should be required to include specific, concrete steps toward service coordination and to specify when during the five year period these steps will be completed.

Response: We have not accepted all the suggestions made, but we have amended paragraph (m)(1) to add a statement of purpose—that is, that the services coordination process is to improve access to services and deliver a range of services to children and their families. Again, we believe that the process itself should be left to the discretion of individual States and Indian Tribes.

Comment: Several commenters asked that we revise paragraph (m)(2) to state, ''coordinate * * * to ensure that at-risk children and families have access to all services necessary to protect the safety of family members, promote family stability and prevent out-of-home placement whenever possible, regardless of the boundaries. * * *'' These commenters further suggested that the examples provided include developing compatible and linked computer systems.

Response: We have revised the language in paragraph (m)(2) to include ''linked automated information systems'' as an example of a process that will lead to additional coordination of services. In regard to the remaining comment, we feel that the purposes expressed by these commenters are captured throughout the rule and therefore have not revised the language.

Comment: One commenter recommended that the requirements for service coordination under paragraph (m) and family preservation and family support services and linkages to other social and health services under paragraph (o) be merged into a single section which clearly states that the ultimate purpose of service coordination is to improve the well-being of children, youth and families. This commenter stated that while the preamble is clear on the importance of system coordination, the rule is not; and they suggested the rule be revised to clearly specify that there should be coordination with service delivery systems providing social, health, education and economic services to children and their families but also with mental health, developmental disabilities and housing systems.

Response: While we agree that paragraphs (m) and (o) speak to coordination and linkages of services respectively, we do not believe these requirements should be merged as each paragraph also has a separate aim. The intent of paragraph (m) is to describe the overall coordination process for the full range of child and family services provided by the State. Whereas, paragraph (o) is focused on the expansion of family preservation and family support services and the linkages with other services and service delivery systems as well as within the child and family services continuum.

Section 1357.15(n) Services

At the heart of the State and Indian Tribal plans is the description of child and family services. We believe that the description of services required in this section is one of the most important aspects of the CFSP. Not only will it provide a comprehensive picture of the services provided and resources available, it can clearly illustrate State and Indian Tribal decision-making in directing services toward the goals and objectives in the CFSP and form the basis for discussion of future coordination of services and improved service delivery.

We have also noted in the rule that several of the requirements (providing information on child protective services, child welfare services, family preservation and support services, foster care, and adoption) of paragraph (n) can be met by completing the CFS–101, Part II—the Annual Summary of Child Welfare Services.

Comment: One commenter asked that we revise paragraph (n) to encourage States to specify private support as well as publicly supported family support programs in their child and family services continuum, at least in targeted communities. This commenter also recommended that the rule provide that child abuse and neglect prevention, intervention and treatment should be reported separately and distinctly from foster care even though they are both included in the child and family services continuum.

Response: While information on private family support programs may be included in a State's CFSP and are important in helping States to determine where to target resources, for purposes of Federal reporting, States need only report information on publicly funded services. We believe it is clear that child abuse and neglect prevention, intervention and treatment are to be reported separately from foster care and we have not made any changes in response to this comment.

Section 1357.15(o) Family Preservation and Family Support Services and Linkages to Other Social and Health Services

In meeting this requirement, States will use, in part, the information gathered on the availability of family preservation and family support services (see § 1357.15(k)(2)). Since FY 1995 is the first year in which all States are implementing the new title IV–B, subpart 2 (family preservation and family support services,) we believe this information will provide a national overview of the development, operation, and/or expansion of family preservation and family support services in all States as well as identify the processes States are using to develop coordinated systems of care.

Comment: Commenters asked that States be specifically required to link family preservation and family support to mental health and education.

One commenter asked that the child and family services plan explain how Federal mental health funds under the Child and Adolescent Service System Program and the Child Mental Health Service Program, in addition to CAPTA and ILP will be coordinated with the State's child and family services system of care.

Response: While we do not require linkage to specific additional programs or services beyond those directly in the plan, we believe the language in paragraphs (m) and (o) is sufficiently broad to accommodate the services listed by the commenters.

Comment: One commenter recommended that we amend the service requirement to specify that the CFSP describe how the new family support and family preservation service programs will relate to privately funded as well as publicly funded family support services.

Response: We believe the commenter's point is addressed in § 1357.15(o)(3) which requires the CFSP to describe the linkage and coordination of services in the continuum and other Federal and non-federally funded public and non-profit private programs.

Section 1357.15(p) Services in Relation to Service Principles

We included the child and family services principles in this rule at 45 CFR 1355.25 to assure that services designed with title IV–B funding would be consistent with a vision expressed by practitioners in the field, which we have embraced. We believe these principles are the basis for the development of effective, responsive, and quality services programs.

Comment: One commenter asked that reference to principles of child and family services be clearly distinct from the vision, goals and objectives that a CFSP contains. From the commenter's perspective, the CFSP's vision, goals and objectives are the factors against which progress should be measured while principles are to be used as guidelines.

Response: We agree with the respondent's interpretation of the distinction between the principles and the vision, goals and objectives and believe this distinction is clear in paragraphs (h) and (i).

Section 1357.15(q) Services in Relation to Permanency Planning

The ''permanency provisions'' enacted by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96–272) focused on the importance of providing preventive and crisis intervention services and establishing permanency for the children in foster care. Through permanency planning, children were to be placed in permanent living arrangements as quickly as possible. Permanency is still the cornerstone of child welfare practice with children.

In October 1994, Pub. L. 103–432 was passed, amending the Social Security Act. One of the amendments repealed section 427, effective October 1, 1996. The protections that were formerly under section 427 of the Act are now incorporated in section 422(b)(9) as title IV–B Plan requirements. Department policy has been and continues to be that the State, as required by statute, is responsible for providing these protections to all children, including Indian children. The specific arrangements with respect to Indian children under Tribal jurisdiction can

be effective only if they are discussed jointly by the State and the Tribe. We are accordingly requiring that the CFSP include a discussion of the arrangements that the State has made with Tribes for this purpose. It is expected that the States will take the initiative to contact all Tribes, if they have not done so already, for the purpose of ensuring that the 422(b)(9) protections are provided to Indian children. Likewise, a Tribe that wishes to receive direct funding must include in its Plan a discussion of the arrangements that have been made with the State (see § 1357.40).

Comment: One commenter requested that we illustrate that family preservation and family support services can and should be provided to families when children live apart from their families in order to achieve permanency for children.

Response: We agree with the thrust of the respondent's comment and believe that the definitions of family preservation and support services in § 1357.10 and the principles at § 1355.25 all support the use of family preservation and family support services with children living apart from their families as well as with families before children have been removed. Family preservation and family support are two critical strategies to be used to achieve permanency for children.

Section 1357.15(r) Decision-Making Process: Selection of Family Support Programs for Funding

In making funding decisions for family support services, we strongly recommend that States examine the work and accomplishments of community-based organizations and look to them as the providers of first resort of family support services. It is these organizations, based in and trusted by the community, which typically have the knowledge and expertise to effectively provide these services.

Comment: One commenter suggested that the requirement for decisionmaking be expanded to include information on how the State will select criteria for funding services over the five-year period.

Response: While we believe that States should establish such criteria to support decisionmaking, we believe that such requirements for selection are not required for Federal reporting purposes.

Comment: One commenter noted that the preamble recommended that States look to community-based organizations that are based in and trusted by the community as the highest priority potential providers of family support services and was concerned that there is nothing in the rule to allow Federal officials to know the extent to which such community-based organizations are in fact the providers of these services. The commenter recommended that the CFSP be required to reflect in more detail the nature of the providers that are chosen and what percentage of the family support dollars are being provided by different types of community-based organizations.

Response: The Statute requires that family support services be community-based, not necessarily provided by community-based agencies. We support State efforts to set detailed guidelines or criteria regarding selection and the extent to which different types of community-based organizations should be involved. However, reporting of this nature would not be necessary for Federal purposes.

Section 1357.15(s) Significant Portion of Funds Used for Family Support and Family Preservation Services

A statutory requirement of section 432(a)(4) of the Act, this provision is designed to assure that both family preservation and family support services are developed within a State or Indian Tribe. While the statute does not define ''significant,'' the State's rationale will need to be especially strong if the request for either percentage is below 25 percent.

Comment: While a number of commenters remarked positively on this section, there were some opposing comments. One commenter recommended that rather than provide that ''there is no minimum percentage but a State's rationale will need to be strong if below 25 percent'', we provide instead, ''There will be no minimum percentage that defines significant. The States will provide the rationale for funding allocation method.'' The commenter was concerned that to insist on a specific percentage imposes a top-down insistence that may not be embraced positively in the communities.

Another commenter stated that the requirement that States indicate the specific percentage of Federal funds the State would expend for community-based family support services and for family preservation services and a rationale would be difficult if not impossible to determine since many services can be considered both, such as the State's new home visiting program. Instead, the commenter asked that the standard be revised to give the State flexibility in determining how best to use IV–B funds. One commenter indicated that they would not support the inclusion of a minimum percentage to define significant portion of funds, stating that a planning process should be a forum for reform rather than for ''dividing up the pie.''

Response: We believe that this section, of all the options considered, best represents the approach for determining ''significant portion.'' We believe we must provide some guidance to States on meeting this requirement, while remaining committed to providing maximum flexibility to accommodate a wide range of differences among States. While we understand that in some cases it may be difficult to categorize certain programmatic expenditures as either family preservation or family support services, we see the joint planning process as the mechanism by which States, Tribes and Regional Offices can reach agreement on these matters. We will support all reasonable determinations made and are available to provide technical assistance if requested.

Comment: One commenter was concerned about a perceived lack of emphasis on primary prevention, stating that while the child and family service plan is important, it may be difficult to coalesce treatment and prevention agencies without losing hard fought focus on prevention initiatives. The commenter was concerned that the rule did not provide guidance on the percentage of funds to devote to programs for family preservation and support and thought that without this, there may be less allocated to primary prevention efforts.

Response: We believe that it is important to note that even the limited focus on prevention provided in this rule is stronger than that addressed previously. We do not think it necessary, or within our authority, to provide restrictions on the percentage of funds for family support or family preservation services. Paragraph (s) of § 1357.15 requires States to include an explanation of distribution of funds and requires that States which spend less than 25 percent on family preservation or on family support have an especially strong rationale for the minimal funding level.

Section 1357.15(t) Staff Training, Technical Assistance and Evaluation

States and Indian Tribes consistently build staff expertise and organizational capacity for the design and delivery of family preservation and family support services as well as conduct self-evaluations. We want to emphasize that States are not required to conduct

evaluations and/or research activities related to the CFSP.

Comment: A number of comments were received on the general nature or specific aspects of the training and technical assistance portion of the CFSP as presented in the NPRM.

Two respondents were pleased to see training and technical assistance conceptualized as a program cost and not viewed as an administrative cost.

One commenter wanted the subsection strengthened by adding language from the preamble dealing with interdisciplinary training and continuous improvement.

Several respondents wanted standards for elements such as staffing qualifications, different types of training, training requirements, and coordination.

A commenter was disappointed that the NPRM failed to present a specific mechanism to teach staff how to work effectively within the new value base.

A few respondents perceived the preamble of the NPRM as recommending that the entire staff of the child welfare agency providing family preservation and family support services be trained and that specific types of training be proposed. They were concerned with what appeared to them to be insufficient Federal funds to support this approach to T&TA and one urged title IV–E training funds be allowed to be used.

Two commenters called for cross-disciplinary training.

Response: Although a number of focus group members convened to guide implementation of the Family Preservation and Support Services Program prior to the publication of the NPRM recommended training all child welfare system staff, a decision has been made to not transform that request into regulations. Decisions regarding the facets of training and specific training content can only be made by each State or Indian Tribe based upon their CFSP. In response to concerns raised about interdisciplinary training and continuous improvement, we added the following language to § 1357.15(t)(1): ''Training must be an ongoing activity and must include content from various disciplines and knowledge bases relevant to child and family services, policies, programs, and practices. Training content must also support the cross-system coordination consultation basic to the development of the CFSP.''

Training supported by various Federal funding streams should be linked together. The title IV–E training plan must be combined with the CFSP training plan submitted as part of the title IV–B plan to promote the coordination of overall training and the integration of training in support of programmatic efforts. States and Indian Tribes are encouraged to make title IV–E training as complementary to and supportive of the CFSP as it can be. At the same time, title IV–E training has a unique focus and operates within a specific statutory and regulatory framework.

Comment: Several respondents either requested clarity regarding what was meant by evaluation, or proposed specific evaluation strategies to be incorporated into the rule.

A respondent requested additional funding support for evaluation.

One respondent felt the use of the term ''evaluation'' in this subsection was confusing.

Three commenters supported State administered evaluation efforts, self-evaluation practices tied to the unique circumstances each State or Indian Tribe has to contend with, or front-end evaluation.

One commenter asked that voluntary providers be involved in the evaluation of the T&TA effort.

Response: Evaluation is extremely important and although evaluation is not required and extra funds are not provided specifically, as indicated in § 1357.15(t)(3), there is support for any evaluation underway or planned in a State or Indian Tribe related to the goals and objectives of the CFSP. In addition to State and/or Tribal activities, the Department is conducting national evaluations which will help inform professional and policy audiences about the effects of the services. The Family Preservation and Support Services Program, title IV–B, subpart 2, remains a capped entitlement program, and no additional funds beyond the State or Tribal yearly allocation are available.

Comment: One respondent called for the inclusion of staff from voluntary agencies in training.

Response: There will be no change in regulatory language because it would be inappropriate to regulate any specific group that must be involved in training. It is assumed that when voluntary agencies are represented in the goals and objectives set forth in the CFSP and actively involved in the implementation of the CFSP, they will, of necessity, have to participate in appropriate training.

Comment: Two respondents raised cultural issues in relation to training.

One commenter urged that ICWA mandates and other American Indian cultural competence training materials be required for inclusion in training activities.

A second commenter asked for education and billing ''waivers'' to develop culturally sensitive providers for specific groups.

Response: In § 1355.25(e) we affirm the importance of cultural issues and factors in the design and delivery of child and family services. It would not be suitable to weave into the rule particular culturally-based items or resource materials that must be included in training. States which have American Indian or Alaskan Native populations and Tribal governments or other culturally or linguistically diverse populations will have the motivation and flexibility to develop and offer culturally relevant training. Also, since statutory provisions neither request nor require specific providers for specific groups, there is no basis for establishing regulations on the issue.

Section 1357.15(u) Quality Assurance

In designing, expanding, and implementing quality assurance activities, States and Indian Tribes may wish to refer to the principles in 45 CFR 1355.25.

Comment: We received several responses to our request for recommendations for model approaches, procedures and basic measures or measures of quality. One commenter urged that we continue to gather information for purposes of providing guidance and technical assistance to States but that quality assurance systems not be used as a measure of compliance with any minimal Federal standards. Another commenter remarked that an HHS Office of the Inspector General 1994 Report recommended that ACF require States to have quality assurance programs in place that look at the quality of casework and services provided, not just documentation of procedures.

The commenter recommended that States be required to spell out, at a minimum: Standards against which they will assess the quality and effectiveness of services provided, how various requirements described in this rule will be met, and procedures to discontinue services that do not meet certain standards of quality.

Response: We support the commenter's position that quality assessment can provide information to allow more meaningful Federal guidance and technical assistance to States. While this information will be helpful in determining compliance with Federal requirements, it will not serve as the sole tool for monitoring compliance. We considered establishing minimum Federal standards for quality

services, but recognizing the variance in individual State circumstances, we determined that States should have flexibility to design their own quality assurance systems.

Comment: One commenter asked that we strengthen the rule by including some examples of quality assessment techniques for cultural/linguistic competence.

Another commenter noted that the rule allows virtually unlimited discretion in designing a quality assurance system but offered that any effective system would normally be expected to include certain data collection and assessment methods such as case reading.

Response: We have decided not to expand on the examples or requirement of quality assessment techniques given in this rule to provide States with maximum flexibility. These examples were given for illustrative purposes only and we believe that States would be in the best position to design their own quality assurance systems.

Comment: One commenter stated that the requirements of this section could result in the submission of voluminous amounts of data since the commenter's State has an entire division responsible for quality assurance, performance/outcome measures.

The commenter suggested that the time spent to prepare an adequate description to accompany the plan would be better spent on the processes related to the plan itself.

Response: The requirement of § 1357.15(u) is that States submit a *description* of the quality assurance system it will use, and not the data produced by that system. Since quality improvements are vital to child and family services, we are committed to the importance of this requirement.

Section 1357.15(v) Distribution of the CFSP and the Annual Progress and Services Report

We believe it will be useful to States and Indian Tribes to share the CFSP and the Annual Progress and Services Reports, both with each other and with those individuals, agencies, and organizations which are a part of the ongoing consultation and coordination effort. Such dissemination can lead to increased support, knowledge and coordination of services.

Comment: One commenter suggested that the final rule should require the CFSP and annual progress report be made available to anyone upon request and require States to provide for similar availability of quality assurance data. The commenter further recommended that the grantee should be required to document not only what it plans to do to accomplish its goals and objectives but also what it does not plan to do and why. For example, if a state decides to channel all or most of its funding into one or a limited number of services categories it should have to explain why.

Response: We agree that the annual progress report must be available to the public. We will not, however, further specify what a State or Indian Tribe must include in that review.

Section 1357.16 Annual Progress and Services Reports

Reports from States and Tribes will be key to ongoing learning and growth in practice of child and family services and the ongoing planning and implementation of child and family services. The reports from States and Tribes will be used to update the State's or Indian Tribe's goals and objectives of the child and family services programs.

We have added in paragraph (b) the requirements for the submission of the CFS–101. The directions for submitting the CFS–101 will vary depending upon where each State and eligible Indian Tribe is in terms of consolidating title IV–B, subparts 1 and 2, and the status of each eligible Indian Tribe regarding title IV–B, subpart 1.

Comment: One commenter suggested that we call for an inclusive planning process by requiring that those involved in the ongoing consultation and coordination process be involved in annual reviews of a State's activities and that the Annual Progress and Services Report specify any revisions necessary in goals, objectives, services or program design to reflect changed circumstances.

Response: We believe both recommendations are addressed in paragraph (a) of this section.

Comment: One commenter asked that we delete ''review'' from ''Annual progress reviews and services report'' for consistency with other references.

Response: We agree and have revised the wording of the section title accordingly.

Comment: Several commenters suggested that we include a requirement that the annual progress report explain what progress the State has made toward service coordination. Another commenter asked that the annual progress review and services report be required to identify specific accomplishments based on empirical data rather than personal and professional judgment and recommended deleting the ''e.g.'' which implies that provided outcomes for children and families is merely an example of a goal or objective.

Response: We agree with these commenters and we believe that paragraph (a)(1) addresses the need for a requirement on the progress States and Indian Tribes have made toward service coordination for children and families and therefore have not made any changes. We have also revised the paragraph by deleting the ''e.g.''

Section 1357.20 Child Abuse and Neglect Programs

This section clarifies the titles and relevant citations of the Child Abuse and Neglect Program.

No comments were received on this section.

Section 1357.30 State Fiscal Requirements (Title IV–B, Subpart 1, Child Welfare Services)

In order to bring title IV–B, subpart 1 onto the same schedule as that provided for subpart 2, existing rules which have proven to be unnecessarily confusing to and burdensome on States, have been adjusted. We have deleted the requirement for an obligation period and require instead that subpart 1 funds must be expended (liquidated) by September 30 of the fiscal year following the fiscal year in which the funds were awarded. This will mean an identical expenditure period for funds under title IV–B, subparts 1 and 2, and the independent living program. As indicated previously, a conforming amendment was made in 45 CFR 1355.30 to clarify that 45 CFR part 95, subpart A, is not applicable to title IV–B programs.

In response to comments, a change was made in § 1357.30(e), § 1357.32(d), § 1357.40(d), and § 1357.42(g). We have decided to allow the use of non-public third-party cash, donations and in-kind contributions, in accordance with 45 CFR 92.24 (see the discussion of in-kind in Part II of this preamble).

A technical deletion has been made to paragraph (a) reflecting a statutory change discontinuing the transfer of title IV–E foster care funds to title IV–B child welfare services (Pub. L. 103–432).

Comment: One commenter was concerned that it will be problematic to obligate and liquidate funds in the time limit if subpart 1 is fully funded.

Response: Once the States and Indian Tribes submit their applications for subparts 1 and 2 funds by June 30 there will be a full two years to spend the money.

Comment: One commenter asked if States will have to submit an application for funds for reallotment or whether the Commissioner will reallot any available funds independently on

the basis of the amount originally requested in the annual budget request.

Response: Since requests for reallotment are rare we will not be changing the rule on the process for reallotment. If funds become available for reallotment States will be notified and provided with instructions to apply for those funds.

Section 1357.32 State Fiscal Requirements (Title IV–B, Subpart 2, Family Preservation and Family Support Services)

In this section, we have defined administrative costs as those costs associated with auxiliary functions to support development and implementation of the Child and Family Services Plan and Annual Progress and Services Report (e.g., procurement, payroll, personnel functions, management, maintenance, operation of space and property, data processing and computer services, accounting, budgeting, auditing, and indirect costs.)

We have also added a clarification that costs directly associated with implementing the CFSP are not considered administrative costs (e.g., delivery of services, planning, consultation, coordination, training, quality assurance measures, data collection, evaluation, and supervision) and are considered program costs.

Comment: One commenter asked that in paragraph (d)(2), a definition of the term ''donated funds'' be provided. Another commenter recommended that the terminology, Federal, State, and local and private funds be used rather than Federal, State, local, and donated. This commenter went on to suggest that when referring to cash versus non cash, that the term cash alone be used. The term donated can apply to cash or in-kind but should be used in referring to contributions from third parties which are not the Family Preservation and Family Support grantee. The commenter suggested that the definition for cash and in-kind should be that found in 45 CFR 92.3 for cash contributions and third-party in-kind contributions.

Response: We are not providing a definition, per se, of ''donated funds'' in this rule but in response to this comment we clarify that the non-Federal match may be donated funds and may be in kind contributions. In addition to the cite to 45 CFR 92.3 provided by the commenter we would also refer readers to 45 CFR 92.24 as an additional reference on matching and cost sharing.

Comment: Two commenters stated that they had been given guidance that existing State general revenue expenditures for family preservation and family support could be used to meet the match requirement for service expansion but were concerned that the rule was not clear on whether this is, in fact, permissible.

Response: Existing State general revenue expenditures can only be used as match if they are newly devoted to family preservation and family support purposes.

Comment: Several commenters recommended that non-Federal funds to meet the non-supplantation requirement be defined as State only, not local, public funds because of State difficulty in determining and collecting fiscal information from all local public agencies providing family preservation and family support services.

Response: We agree and have revised the language in paragraph (f) by deleting the reference to local public funds and have defined ''non-Federal funds'' as State funds.

Comment: One commenter suggested that at the State level, an agency other than the IV–B agency should be treated the same as local public entities with respect to maintenance of effort requirements to assure separate records are kept that non-supplantation has not occurred.

Response: While we are not addressing the issue explicitly in this rule, States have the authority to require assurances of their subrecipients.

Comment: One commenter voiced concern that the non-supplantation requirements are vague and largely unenforceable, since identification of FY 1992 costs in many cases will be infeasible as such costs were buried in titles IV–B, subpart 1; XX; IV–A EA; IV–A (administration) and State general revenue costs centers. The commenter recommended that State non-supplantation should be limited to an ''assurance'' and that definitive instructions should be developed as to what should be reported for the annual reporting requirement.

Response: While non-supplantation is an assurance, back-up documentation must still be maintained at the State level for auditing purposes.

Comment: Several comments were received regarding the 10 percent limitation on administrative costs.

One commenter suggested the limit be applied only to the title IV–B/IV–E agency and not the direct service provider, otherwise the policy may have the unintended consequence of prohibiting small, community-based agencies from participating in the initiative.

Another commenter asked that the limitation on administrative costs be increased to 15 percent.

Several commenters were concerned that the definition of administrative costs is unworkable since it goes beyond existing cost allocation procedures. Concern was voiced that to separate costs as suggested would be very time consuming, and inclusion of the general category of management in (ii) will mean that large portions of the cost of carrying out any such program will be ineligible for Federal funds. It was suggested that management be deleted from the list and a general definition of administrative expenditures based on existing cost allocation procedures be used.

Another commenter recommended that administrative costs be defined as indirect and other non-program support, as allocable in accordance with the agency approved cost allocation plan.

Response: The 10 percent administrative cost limitation is found in the statute at § 432(a)(4) and cannot be modified. In response to comments the 10 percent administrative cost limitation in paragraph (h) will be applied only to the Federal share of funds.

We believe the definition of administrative costs is consistent with existing regulations and procedures, including those governing agency approved cost allocation plans, and provides States increased flexibility.

We would also like to clarify that ''administrative cost'' and ''program cost'' are program relative terms which describe how costs relate to specific program activities. The definition of an administrative or programmatic cost will vary according to the nature of an individual program. ''Indirect costs'' and ''direct costs'' are general accounting terms which describe how costs are allocated to a program or activity budget. Program costs are costs of major functions such as delivery of services incurred in connection with developing and implementing the CFSP.

Comment: One commenter suggested that States be required to provide an explanation of how they will transfer administrative resources to communities.

Response: The distribution of administrative resources is undertaken at the discretion of the individual State and we are not making any changes to the rule to require an explanation of how these resources are transferred to communities.

Comment: Two commenters asked that a definition of subrecipient be included in the final rule.

Response: A definition of subrecipient has not been added to this rule. ''Subrecipient,'' as used in this final rule, refers to a legal entity to which

funds have been awarded by a State or Tribal grantee. The term is intended to reflect the various kinds of funding relationships (e.g., grants, contracts, interagency agreements, etc.,) which may exist between States/Indian Tribes and the agencies and organizations they fund.

Section 1357.40 Direct Payments to Indian Tribal Organizations (Title IV–B, Subpart 1, Child Welfare Services)

Previously, Indian Tribes could submit their title IV–B (subpart 1, child welfare services) plan at one, two, or three year intervals with annual updates. We believe a five-year plan will not only reduce administrative burden but will enable the Indian Tribe to deliver services in the context of a plan that includes both short-term objectives and long-term goals, supported by consultation and coordination activities, leading to more coordinated and effective services.

As previously stated in section 1357.15(q), section 427 of the Act was repealed by Pub. L. 103–432, effective October 1, 1996. The protections formerly embodied in section 427 are now incorporated in section 422(b)(9) as title IV–B Plan requirements. Department policy has been and continues to be that the State, as required by statute, is responsible for providing these protections to all children, including Indian children.

Tribes that wish to receive direct funding under title IV–B, in accordance with section 428 of the Act, are not required under current law or regulations to provide the protections that were specified previously in section 427 to receive direct funding. The provision of those protections is the legal responsibility of the State. However, a Tribe, by arrangement with the State, may choose to provide those protections itself. As set forth in the final regulation, a Tribe that wishes to receive direct funding under title IV–B, subpart 1, must include in its Plan a discussion of the arrangements that have been made with the State for the protection of children in accordance with section 422(b)(9). It is expected that the States will take the initiative to contact all Tribes, if they have not done so already, for the purpose of ensuring that the 422(b)(9) protections are provided to Indian children.

The NPRM, which was drafted prior to enactment of the Social Security Amendments of 1994, referred to the section 422 provisions in their entirety as a basis for direct funding of Tribes; now that the former section 427 protections have been incorporated in section 422(b)(9), this is no longer accurate. Accordingly, the final rule has been corrected to make clear that, as is the case under the current regulation, Tribes are not required to provide the protections in section 422(b)(9) as a condition of receiving direct funding.

Comment: One commenter asked that the funding of Tribal consortia, which may serve more than one Tribe, be considered for funding.

Response: The NPRM sanctioned the eligibility of consortia. In order to make this point clearer, the language in § 1357.40 (a) and (b) has been modified.

Comment: Several respondents addressed either the content or duration of the plans to be submitted by Indian Tribal Organizations.

One respondent wanted to make sure the Indian Tribe would say in its plan how its title IV–B, subpart 1, money would be used.

Another commenter stated that a five-year plan was preferable to a plan of one, two or three years.

Response: The CFSP and the CFS–101 submitted by Indian Tribes will detail how title IV–B funds will be spent. There is a statutory basis for requiring five-year plans.

Comment: One commenter requested substituting the phrase ''federally recognized Indian Tribe'' for ''Indian Tribal Organization'' to avoid any confusion or misinterpretation.

Response: There will be no change in language because the respondent's request fails to consider a major distinction between ''Federally recognized Indian Tribe'' and ''Indian Tribal Organization'' (ITO) in relation to title IV–B, subpart 1. Prevailing statute and regulations grant Federally recognized Indian Tribes the authority to delegate authority to an ITO for purposes of securing title IV–B, subpart 1 funds. Therefore, it is conceivable that an Indian Tribe could have been given authority by a Federally recognized Indian Tribe to obtain title IV–B, subpart 1 funds. Use of the term ''Federally recognized Indian Tribe'' is too restrictive because it eliminates potential recipients of the title IV–B, subpart 1 funds.

Section 1357.50 Direct Payments to Indian Tribal Organizations (Title IV–B, Subpart 2, Family Preservation and Family Support Services)

We have made several changes in this section in response to comments, even though most comments were supportive. Changes have been made in the portions of this section dealing with (d) eligibility, (f) exemptions, and (g) matching.

In terms of eligibility, as described in Part II of this preamble, additional Indian Tribes eligible for title IV–B, subpart 2 funding in FY 1996 and thereafter have been given in (d)(3), (4), and (5) a timeframe within which a five-year CFSP must be submitted that meets all of the criteria in § 1357.15. Also in § 1357.50(d)(5)(iii) Indian Tribes have been given the option of conducting planning activities or providing services during the first year in which the Indian Tribe receives title IV–B, subpart 2 funds.

In order to identify ''the most current and reliable information available,'' required by statute in the selection of eligible Indian Tribes, we looked at the various sources of data available on the number of children in each Tribe, including children in the Alaska Regional Corporations, to determine the data set most reliable and valid. We concluded that the Census Bureau data—rather than Tribal documentation or BIA labor force statistics—is the best source. Census data is more uniform, objective, and based on sample design and the use of scientific methodology. In addition, the Census Bureau data defines ''child'' as a person from birth to age 20 while the BIA data defines a child as a person from birth to age 16. The Census Bureau also has data on child population in all Alaska Regional Corporations while the BIA has data on only two Regional Corporations.

Comment: One commenter supported the exemption of certain statutory requirements for Indian Tribes.

Response: The statute grants the Secretary exemption authority for Indian Tribes from any inappropriate requirements. We have provided three exemptions of statutory requirements in § 1357.50(f). They are: (1) 10% limitation on administrative costs; (2) the non-supplantation requirement; and (3) the requirement that a significant portion of funds must be used for family preservation and family support. Indian Tribes can make formal requests to ACF for exemptions of any other requirements.

Comment: Two respondents dealt with the match issue.

One commenter supported in-kind match for eligible Indian Tribes.

One respondent believed there should be no matching requirement for Indian Tribes.

Response: In § 1357.50(g) it is made clear that non-public third party in-kind contributions can be used toward the non-Federal share. The rules governing match have been designed in such a way that all eligible Indian Tribes should have no problem meeting the match requirements.

Comment: One commenter raised concern that the requirement to expend

all funds by September 30 of the following fiscal year is not needed and is inconsistent with the Indian Self-Determination Act.

Response: The Indian Self-Determination Act applies only to programs funded under that Act. We must adhere to the Social Security Act, section 434, in this case, which requires that all funds be expended by the close of the fiscal year following that in which funds were awarded.

Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. This final rulemaking implements statutory authority for a broad consultation and coordination process leading to the development of five-year child and family services plan.

The Executive Order also encourages agencies, as appropriate, to provide the public with meaningful participation in the regulatory process. As described earlier in the preamble, ACF held focus group discussions with State, local, and Tribal officials, and a broad range of private nonprofit agencies, organizations, practitioners, researchers, parents, and others to obtain their views on planning and implementation issues for this new title IV–B program.

The input received during the consultation process on the new Family Preservation and Family Support Program was reflected in the NPRM. The vast majority of comments were extremely supportive of the NPRM—the flexibility provided to State and local agencies, the emphasis on collaboration and coordination in order to bring about improved outcomes for children and families, and the focus group process employed in the NPRM's development. Commenters particularly supported the rule's joint planning and consultation process and the emphasis on a vision and principles of child and family services leading to more responsive, proactive systems of care. We believe that this rule reflects, to a considerable degree, the recommendations of the focus group participants and the comments received in response to the NPRM.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. Ch. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses and other small entities. Small entities are defined in the Act to include small businesses, small non-profit organizations, and small governmental entities. This rule will affect only States and certain Indian Tribes. Therefore, the Secretary certifies that this rule will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains information collection activities which are subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. We will be seeking comment from the public on these information collection activities in a separate Federal Register notice in the near future.

List of Subjects

45 CFR Part 1355

Adoption and foster care; Child abuse and neglect; Child and family services; Child welfare services; Data collection; Definitions—Grant Programs social programs; Family preservation and family support services.

45 CFR Part 1356

Adoption and foster care; Administrative costs; Child and family services; Child welfare services; Fiscal requirements (title IV–E); Grant Programs—Social programs; Independent living program; statewide information systems.

45 CFR Part 1357

Adoption and foster care; Child abuse and neglect; Child and family services; Child welfare services; Family preservation and family support services; Independent living program.

(Catalog of Federal Domestic Assistance Program No. 93.556—Family Preservation and Support Services; No 93.645—Child Welfare Services—State Grants; No. 93.669—Child Abuse and Neglect—State Grants; and No. 93–674—Independent Living)

Dated: March 22, 1996.

Mary Jo Bane,

Assistant Secretary for Children and Families.

Approved: July 30, 1996.

Donna E. Shalala,

Secretary.

For the reasons set forth in the preamble, 45 CFR Chapter XIII is amended as follows:

1. Subchapter G is amended by revising the heading to read as follows:

SUBCHAPTER G—THE ADMINISTRATION ON CHILDREN, YOUTH AND FAMILIES, FOSTER CARE MAINTENANCE PAYMENTS, ADOPTION ASSISTANCE, AND CHILD AND FAMILY SERVICES

PART 1355—GENERAL

2. The authority citation for part 1355 continues to read as follows:

Authority: 42 U.S.C. 620 et seq., 42 U.S.C. 670 et seq. and 42 U.S.C. 1301 and 1302.

3. Section 1355.10 is revised to read as follows:

§ 1355.10 Scope.

Unless otherwise specified, part 1355 applies to States and Indian Tribes and contains general requirements for Federal financial participation under titles IV–B and IV–E of the Social Security Act.

4. Section 1355.20(a) is amended by revising four definitions and by adding one definition to read as follows:

§ 1355.20 Definitions.

(a) * * *

ACYF means the Administration on Children, Youth and Families, Administration for Children and Families (ACF), U. S. Department of Health and Human Services.

* * * * *

Commissioner means the Commissioner on Children, Youth and Families, Administration for Children and Families, U.S. Department of Health and Human Services.

* * * * *

Independent Living Program (ILP) means the programs and activities established and implemented by the State to assist youth, as defined in section 477(a)(2) of the Act, to prepare to live independently upon leaving foster care. Programs and activities that may be provided are found in section 477(d) of the Act.

State means, for title IV–B, the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and American Samoa. For title IV–E, the term ''State'' means the 50 States and the District of Columbia.

State agency means the State agency administering or supervising the administration of the title IV–B and title IV–E State plans and the title XX social services block grant program. An exception to this requirement is permitted by section 103(d) of the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96–272). Section 103(d) provides that, if on December 1, 1974, the title IV–B program (in a State or local agency) and the social services

program under section 402(a)(3) of the Act (the predecessor program to title XX) were administered by separate agencies, that separate administration of the programs could continue at State option.

* * * * *

5. Section 1355.21(c) is revised to read as follows:

§ 1355.21 State plan requirements for titles IV–B and IV–E.

* * * * *

(c) The State agency and the Indian Tribe must make available for public review and inspection the Child and Family Services Plan (CFSP) and the Annual Progress and Services Reports. (See 45 CFR 1357.15 and 1357.16.) The State agency also must make available for public review and inspection the title IV–E State Plan.

6. A new section 1355.25 is added to read as follows:

§ 1355.25 Principles of child and family services.

The following principles, most often identified by practitioners and others as helping to assure effective services for children, youth, and families, should guide the States and Indian Tribes in developing, operating, and improving the continuum of child and family services.

(a) The safety and well-being of children and of all family members is paramount. When safety can be assured, strengthening and preserving families is seen as the best way to promote the healthy development of children. One important way to keep children safe is to stop violence in the family including violence against their mothers.

(b) Services are focused on the family as a whole; service providers work with families as partners in identifying and meeting individual and family needs; family strengths are identified, enhanced, respected, and mobilized to help families solve the problems which compromise their functioning and well-being.

(c) Services promote the healthy development of children and youth, promote permanency for all children and help prepare youth emancipating from the foster care system for self-sufficiency and independent living.

(d) Services may focus on prevention, protection, or other short or long-term interventions to meet the needs of the family and the best interests and need of the individual(s) who may be placed in out-of-home care.

(e) Services are timely, flexible, coordinated, and accessible to families and individuals, principally delivered in the home or the community, and are delivered in a manner that is respectful of and builds on the strengths of the community and cultural groups.

(f) Services are organized as a continuum, designed to achieve measurable outcomes, and are linked to a wide variety of supports and services which can be crucial to meeting families' and children's needs, for example, housing, substance abuse treatment, mental health, health, education, job training, child care, and informal support networks.

(g) Most child and family services are community-based, involve community organizations, parents and residents in their design and delivery, and are accountable to the community and the client's needs.

(h) Services are intensive enough and of sufficient duration to keep children safe and meet family needs. The actual level of intensity and length of time needed to ensure safety and assist the family may vary greatly between preventive (family support) and crisis intervention services (family preservation), based on the changing needs of children and families at various times in their lives. A family or an individual does not need to be in crisis in order to receive services.

7. Section 1355.30 is revised to read as follows:

§ 1355.30 Other applicable regulations.

Except as specified, the following regulations are applicable to all programs funded under titles IV–B and IV–E of the Act.

(a) 45 CFR Part 16—Procedures of the Departmental Grant Appeals Board.

(b) 45 CFR Part 30—Claims Collection.

(c) 45 CFR Part 74—Administration of Grants (Applicable only to title IV–E foster care and adoption assistance, except that: (1) Section 74.23 Cost Sharing or Matching, and (2) section 74.52 Financial Reporting Requirements, will not apply.)

(d) 45 CFR Part 76—Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

(e) 45 CFR Part 80—Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964.

(f) 45 CFR Part 81—Practice and Procedure for Hearings Under Part 80 of This Title.

(g) 45 CFR Part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance.

(h) 45 CFR Part 91—Nondiscrimination on the Basis of Age in HHS Programs or Activities Receiving Federal Financial Assistance.

(i) 45 CFR Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (Applicable only to the title IV–B programs and the Independent Living Program under Section 477 of the Act).

(j) 45 CFR Part 93—New Restrictions on Lobbying.

(k) 45 CFR Part 95—General Administration—Grant Programs (Public Assistance and Medical Assistance). (Applicable to title IV–B and title IV–E except that, notwithstanding 45 CFR 95.1(a), Subpart A, Time Limits for States to File Claims, does not apply to title IV–B (subparts 1 and 2) and the Independent Living Program.)

(l) 45 CFR Part 97—Consolidation of Grants to the Insular Areas. (Applicable only to the title IV–B programs).

(m) 45 CFR Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities. (Only one section is applicable: 45 CFR 100.12, How may a State simplify, consolidate, or substitute federally required State plans?).

(n) 45 CFR Part 201—Grants to States for Public Assistance Programs. Only the following sections are applicable:

(1) § 201.5—Grants. (Applicable to title IV–E foster care and adoption assistance only.)

(2) § 201.6—Withholding of payment; reduction of Federal financial participation in the costs of social services and training.

(3) § 201.7—Judicial review.

(4) § 201.15—Deferral of claims for Federal financial participation. (Applicable only to title IV–E foster care and adoption assistance.)

(5) § 201.66—Repayment of Federal funds by installments. (Applicable only to title IV–E foster care and adoption assistance.)

(o) 45 CFR Part 204.1—Submittal of State Plans for Governor's Review.

(p) 45 CFR Part 205—General Administration—Public Assistance Programs. Only the following sections are applicable:

(1) § 205.5—Plan amendments.

(2) § 205.10—Hearings.

(3) § 205.50—Safeguarding information for the financial assistance programs.

(4) § 205.100—Single State agency.

PART 1356—REQUIREMENTS APPLICABLE TO TITLE IV–E

8. The authority citation for Part 1356 continues to read as follows:

Authority: 42 U.S.C. 620 et seq., 42 U.S.C. 670 et seq., and 42 U.S.C. 1302.

9. Section 1356.10 is revised to read as follows:

§ 1356.10 Scope.

This part applies to State programs for foster care maintenance payments, adoption assistance payments, related foster care and adoption administrative and training expenditures, and the independent living services program under title IV–E of the Act.

10. Section 1356.80 is added to part 1356 to read as follows:

§ 1356.80 Independent Living Program (ILP).

(a) *Scope.* To receive payments under section 477 of the Act, the State agency must meet the applicable requirements of sections 472, 474, 475, and 477 of the Act.

(b) *Application requirements.* Based on section 477 of the Act, each State must submit an annual application for funds under the Independent Living Program (ILP).

(c) *Allotments.* Payments to each State will be made in accordance with section 477(e)(1) of the Act.

(d) *Matching funds.* (1) States are entitled to their share of the basic amount of $45 million of the ILP appropriation with no requirement for matching funds.

(2) States are required to match dollar-for-dollar any of the funds they receive, through additional or reallocated funds, over their share of the $45 million basic amount.

(3) The State's contribution may be in cash, donated funds, or third-party in-kind contributions.

(4) Matching contributions must be for costs otherwise allowable under section 477 of the Act (e.g., matching contributions for the provision of room and board are not allowable.)

(e) *Reallocation of funds.* Basic funds and additional funds not requested by a State will be available for reallocation to other States under the provisions of section 477(e)(2) of the Act.

(f) *Expenditure of funds.* Section 477(f)(3) of the Act requires that funds must be expended by September 30 of the fiscal year following the fiscal year in which the funds were awarded.

(g) *Maintenance of effort.* Amounts payable under section 477 of the Act shall supplement and not replace:

(1) Title IV–E foster care funds available for maintenance payments and administrative and training costs; and

(2) Any other State funds available for independent living activities and services.

(h) *Prohibition.* ILP funds may not be used for room and board (section 477(e)(3) of the Act).

PART 1357—REQUIREMENTS APPLICABLE TO TITLE IV–B

11. The authority citation for part 1357 continues to read as follows:

Authority: 42 U.S.C. 620 et seq., 42 U.S.C. 670 et seq., and 42 U.S.C. 1302.

12. Section 1357.10 is revised to read as follows:

§ 1357.10 Scope and definitions.

(a) *Scope.* This part applies to State and Indian Tribal programs for child welfare services under subpart 1, and family preservation and family support services under subpart 2 of title IV–B of the Act.

(b) *Eligibility.* Child and family services under title IV–B, subparts 1 and 2, must be available on the basis of need for services and must not be denied on the basis of income or length of residence in the State or within the Indian Tribe's jurisdiction.

(c) *Definitions.*

Child and Family Services Plan (CFSP) means the document, developed through joint planning, which describes the publicly-funded State child and family services continuum (family support and family preservation services; child welfare services, including child abuse and neglect prevention, intervention, and treatment services; services to support reunification, adoption, kinship care, foster care, independent living, or other permanent living arrangements). For Indian Tribes, the document describes the child welfare and/or family preservation and support services to be provided by the Indian Tribe; includes goals and objectives both for improved outcomes for the safety, permanency and well-being of children and families and for service delivery system reform; specifies the services and other implementation activities that will be undertaken to carry out the goals and objectives; and includes plans for program improvement and allocation of resources.

Child welfare services means public social services directed to accomplish the following purposes:

(1) Protecting and promoting the welfare and safety of all children, including individuals with disabilities; homeless, dependent, or neglected children;

(2) Preventing or remedying, or assisting in the solution of problems which may result in the neglect, abuse, exploitation, or delinquency of children;

(3) Preventing the unnecessary separation of children from their families by identifying family problems and assisting families in resolving their problems and preventing the breakup of the family where the prevention of child removal is desirable and possible;

(4) Restoring to their families children who have been removed and may be safely returned, by the provision of services to the child and the family;

(5) Assuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption; and

(6) Placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate.

Children refers to individuals from birth to the age of 21 (or such age of majority as provided under State law) including infants, children, youth, adolescents, and young adults.

Community-based services refers to programs delivered in accessible settings in the community and responsive to the needs of the community and the individuals and families residing therein. These services may be provided under public or private nonprofit auspices.

Families includes, but is not limited to, biological, adoptive, foster, and extended families.

Family preservation services refers to services for children and families designed to protect children from harm and help families (including foster, adoptive, and extended families) at risk or in crisis, including—

(1) Preplacement preventive services programs, such as intensive family preservation programs, designed to help children at risk of foster care placement remain with their families, where possible;

(2) Service programs designed to help children, where appropriate, return to families from which they have been removed; or be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement;

(3) Service programs designed to provide follow-up care to families to whom a child has been returned after a foster care placement;

(4) Respite care of children to provide temporary relief for parents and other caregivers (including foster parents);

(5) Services designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain

assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition; and

(6) Case management services designed to stabilize families in crisis such as transportation, assistance with housing and utility payments, and access to adequate health care.

Family support services means community-based services to promote the well-being of children and families designed to increase the strength and stability of families (including adoptive, foster, and extended families), to increase parents' confidence and competence in their parenting abilities, to afford children a stable and supportive family environment, and otherwise to enhance child development. Family support services may include:

(1) Services, including in-home visits, parent support groups, and other programs designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition;

(2) Respite care of children to provide temporary relief for parents and other caregivers;

(3) Structured activities involving parents and children to strengthen the parent-child relationship;

(4) Drop-in centers to afford families opportunities for informal interaction with other families and with program staff;

(5) Transportation, information and referral services to afford families access to other community services, including child care, health care, nutrition programs, adult education literacy programs, legal services, and counseling and mentoring services; and

(6) Early developmental screening of children to assess the needs of such children, and assistance to families in securing specific services to meet these needs.

Joint planning means an ongoing partnership process between ACF and the State and between ACF and an Indian Tribe in the development, review, analysis, and refinement and/or revision of the State's and the Indian Tribe's child and family services plan. Joint planning involves discussions, consultation, and negotiation between ACF and the State or Indian Tribe in all areas of CFSP creation such as, but not limited to, identifying the service needs of children, youth, and families; selecting the unmet service needs that will be addressed; developing goals and objectives that will result in improving outcomes for children and families; developing a plan to meet the matching requirements; and establishing a more comprehensive, coordinated and effective child and family services delivery system. The expectation of joint planning is that both ACF and the State or Indian Tribe will reach agreement on substantive and procedural matters related to the CFSP.

13. Section 1357.15 is revised to read as follows:

§ 1357.15 Comprehensive child and family services plan requirements.

(a) *Scope.* (1) The CFSP provides an opportunity to lay the groundwork for a system of coordinated, integrated, culturally relevant family focused services. This section describes the requirements for the development, implementation and phase-in of the five-year comprehensive child and family services plan (CFSP). The State's CFSP must meet the requirements of both of the following programs. The Indian Tribe's CFSP must meet the requirements of one or both of the following programs depending on the Tribe's eligibility:

(i) Child welfare services under title IV–B, subpart 1; and

(ii) Family preservation and family support services under title IV–B, subpart 2.

(2) For States only, the CFSP also must contain information on the following programs:

(i) The independent living program under title IV–E, section 477 of the Act; and

(ii) The Child Abuse and Neglect State grant program (known as the Basic State Grant) under the Child Abuse Prevention and Treatment Act (CAPTA) (42 U.S.C. 5101 et. seq.).

(3) States must meet all requirements of this section except those that apply only to Indian Tribes. Indian Tribes must meet the requirements of this section only as specified.

(4) States and eligible Indian Tribes have the option to phase-in the requirements for a consolidated CFSP. The consolidated CFSP requirements must be in place by June 30, 1997 and meet the requirements of 45 CFR 1357.16.

(b) *Eligibility for funds.* (1) In order to receive funding under title IV–B, subparts 1 and 2, each State and eligible Indian Tribe must submit and have approved a consolidated, five-year Child and Family Services Plan (CFSP) and a CFS–101, Budget Request and Estimated Expenditure Report that meets the requirements under 45 CFR 1357.16.

(2) States and Indian Tribes that are consolidating the requirements for a CFSP in FY 1995, in accordance with § 1357.15(a), must submit the CFSP and a CFS–101 for FY 1995 and 1996 by June 30, 1995.

(3) States and eligible Indian Tribes choosing to phase-in the requirements for a consolidated CFSP in FY 1996 and 1997 must submit the CFSP, the CFS–101 for FY 1995 for subpart 1 and 2, and the CFS–101 for subpart 2 for FY 1996 by June 30, 1995.

(4) The CFSP will be approved only if the plan was developed jointly by ACF and the State (or the Indian Tribe), and only after broad consultation by the State (and the Indian Tribe) with a wide range of appropriate public and non-profit private agencies and community-based organizations with experience in administering programs of services for children and families (including family preservation and support services).

(5) By June 30, 1996, each grantee must submit and have approved the first Annual Progress and Services Report and a CFS 101 for FY 1997 that meets the statutory and regulatory requirements of title IV–B, subparts 1 and 2.

(6) The Annual Progress and Services Report will be approved if it was developed jointly by ACF and the State (or the Indian Tribe) and if it meets the requirements of 45 CFR 1357.16.

(7) The five-year CFSP for FYs 1995–1999 may be submitted in the format of the State's or the Indian Tribe's choice and must be submitted no later than June 30, 1995, to the appropriate ACF Regional Office.

(c) *Assurances.* The following assurances will remain in effect on an ongoing basis and will need to be re-submitted only if a significant change in the State or the Indian Tribe's program affects an assurance:

(1) The State or Indian Tribe must assure that it will participate in any evaluations the Secretary of HHS may require.

(2) The State or Indian Tribe must assure that it will administer the CFSP in accordance with methods determined by the Secretary to be proper and efficient.

(3) The State or Indian Tribe must assure that it has a plan for the training and use of paid paraprofessional staff, with particular emphasis on the full-time or part-time employment of low-income persons, as community service aides; and a plan for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State or Tribe.

(4) The State or Indian Tribe must assure that standards and requirements imposed with respect to child care under title XX shall apply with respect to day care services, if provided under the CFSP, except insofar as eligibility for such services is involved.

(d) *The child and family services plan (CFSP): general.* The State and the Indian Tribe must base the development of the CFSP on a planning process that includes:

(1) broad involvement and consultation with a wide range of appropriate public and non-profit private agencies and community-based organizations, parents, including parents who are involved or have experience with the child welfare system, and others;

(2) coordination of the provision of services under the plan with other Federal and federally assisted programs serving children and families, including youth and adolescents; and

(3) collection of existing or available information to help determine vulnerable or at-risk populations or target areas; assess service needs and resources; identify gaps in services; select priorities for targeting funding and services; formulate goals and objectives; and develop opportunities for bringing about more effective and accessible services for children and families.

(e) *State agency administering the programs.* (1) The State's CFSP must identify the name of the State agency that will administer the title IV–B programs under the plan. Except as provided by statute, the same agency is required to administer or supervise the administration of all programs under titles IV–B and IV–E of the Act and the social services block grant program under title XX of the Act. (See the definition of ''State agency'' in 45 CFR 1355.20.)

(2) The CFSP must include a description of the organization and function of the State agency and organizational charts as appropriate. It also must identify the organizational unit(s) within the State agency responsible for the operation and administration of the CFSP, and include a description of the unit's organization and function and a copy of the organizational chart(s).

(f) *Indian Tribal organization administering the program(s).* (1) The Indian Tribe's CFSP must provide the name of the Indian Tribal organization (ITO) designated to administer funds under title IV–B, subpart 1, child welfare services and/or under subpart 2, family preservation and family support services. If the Indian Tribe receives funds under both subparts, the same agency or organization must administer both programs.

(2) The Indian Tribe's CFSP must include a description of the organization and function of the office responsible for the operation and administration of the CFSP, an organizational chart of that office, and a description of how that office relates to Tribal and other offices operating or administering services programs within the Indian Tribe's service area (e.g., Indian Health Service.)

(g) *Vision Statement.* The CFSP must include a vision statement which articulates the grantee's philosophy in providing child and family services and developing or improving a coordinated service delivery system. The vision should reflect the service principles at section 1355.25.

(h) *Goals.* The CFSP must specify the goals, based on the vision statement, that will be accomplished during and by the end of the five-year period of the plan. The goals must be expressed in terms of improved outcomes for and the safety, permanency and well-being of children and families, and in terms of a more comprehensive, coordinated, and effective child and family service delivery system.

(i) *Objectives.* (1) The CFSP must include the realistic, specific, quantifiable and measurable objectives that will be undertaken to achieve each goal. Each objective should focus on outcomes for children, youth, and/or their families or on elements of service delivery (such as quality) that are linked to outcomes in important ways. Each objective should include both interim benchmarks and a long-term timetable, as appropriate, for achieving the objective.

(2) For States and Indian Tribes administering the title IV–B, subpart 1 program, the CFSP must include objectives to make progress in covering additional political subdivisions, reaching additional children in need of services, expanding and strengthening the range of existing services, and developing new types of services.

(j) *Measures of progress.* The CFSP must describe the methods to be used in measuring the results, accomplishments, and annual progress toward meeting the goals and objectives, especially the outcomes for children, youth, and families. Processes and procedures assuring the production of valid and reliable data and information must be specified. The data and information must be capable of determining whether or not the interim benchmarks and multiyear timetable for accomplishing CFSP goals and objectives are being met.

(k) *Baseline information.* (1) For FY 1995, the State and the Indian Tribe must base the development of the CFSP vision, goals, objectives, and funding and service decisions on an analysis of available baseline information and any trends over time on indicators in the following areas: the well-being of children and families; the needs of children and families; the nature, scope, and adequacy of existing child and family and related social services. Additional and updated information on service needs and organizational capacities must be obtained throughout the five-year period to measure progress in accomplishing the goals and objectives cited in the CFSP. A description of how this process will continue to be carried out must be included in the CFSP, and any revisions should be provided in the Annual Progress and Services Report.

(2) The State must collect and analyze State-wide information on family preservation and family support services currently available to families and children, including the nature and scope of existing public and privately funded family support and family preservation services; the extent to which each service is available and being provided in different geographic areas and to different types of families; and important gaps in service, including mismatches between available services and family needs as identified through baseline data and the consultation process. Other services which impact on the ability to preserve and support families may be included in the assessment. The Indian Tribe must collect and analyze information on family preservation and family support services currently available within their service delivery area including the information in this paragraph as appropriate. An Indian Tribe may submit documentation prepared to satisfy the requirements of other Federal child welfare grants, or contracts (such as the section 638 reporting form), along with a descriptive addendum addressing specifically the family preservation and family support services available.

(3) The CFSP must include a summary of the information used in developing the plan; an explanation of how this information and analysis were used in developing the goals, objectives, and funding and service decisions, including decisions about geographic targeting and service mix; a description of how information will be used to measure progress over the five-year period; and how this information will

be used to facilitate the coordination of services.

(l) *Consultation.* (1) The State's CFSP must describe the internal and external consultation process used to obtain broad and active involvement of major actors across the entire spectrum of the child and family service delivery system in the development of the plan. The description should explain how this process was coordinated with or was a part of other planning processes in the State; how it led or will lead to improved coordination of services.

(2) The Indian Tribe's CFSP must describe the consultation process appropriate to its needs and circumstances used to obtain the active involvement of major actors providing child and family services within the Tribe's area of jurisdiction.

(3) For States and Indian Tribes, the consultation process must involve:

(i) All appropriate offices and agencies within the State agency or within the Indian Tribal service delivery system (e.g., child protective services (CPS), foster care and adoption, the social services block grant, reunification services, independent living, and other services to youth;)

(ii) In a State-supervised, county-administered State, county social services and/or child welfare directors or representatives of the county social services/child welfare administrators' association;

(iii) A wide array of State, local, Tribal, and community-based agencies and organizations, both public and private nonprofit with experience in administering programs of services for infants, children, youth, adolescents, and families, including family preservation and family support services;

(iv) Parents, including birth and adoptive parents, foster parents, families with a member with a disability, children both in and outside the child welfare system, and consumers of services from diverse groups;

(v) For States, representatives of Indian Tribes within the State;

(vi) For States, representatives of local government (e.g., counties, cities, and other communities, neighborhoods, or areas where needs for services are great;)

(vii) Representatives of professional and advocacy organizations (including, for example foundations and national resource centers with expertise to assist States and Indian Tribes to design, expand, and improve the delivery of services); individual practitioners working with children and families; the courts; representatives or other States or Indian Tribes with experience in administering family preservation and family support services; and academicians, especially those assisting the child and family service agency with management information systems, training curricula, and evaluations;

(viii) Representatives of State and local agencies administering Federal and federally assisted programs which may include: Head Start; the local education agency (school-linked social services, adult education and literacy programs, Part H programs); developmental disabilities; nutrition services (Food Stamps, Special Supplemental Food Program for Women, Infants and Children (WIC)); Title IV–A; runaway youth, youth gang, juvenile justice programs and youth residential and training institutions; child care and development block grant (CCDBG) and respite care programs; domestic and community violence prevention and services programs; housing programs; the health agency (substance abuse, Healthy Start, maternal and child health, Early and Periodic Screening, Diagnosis, and Treatment (EPSDT), mental health, and public health nursing); law enforcement; Children's Trust Funds; Community-Based Family Resource Programs, and new Federal initiatives such as the Empowerment Zones and Enterprise Communities Program; and

(ix) Administrators, supervisors and front line workers (direct service providers) of the State child and family services agency.

(4) The CFSP must describe the ongoing consultation process that each grantee will use to ensure the continued involvement of a wide range of major actors in meeting the goals and objectives over the five-year operational period of the plan and developing the Annual Progress and Services Report.

(m) *Services coordination.* (1) States must include in the ongoing coordination process representatives of the full range of child and family services provided by the State agency as well as other service delivery systems providing social, health, education, and economic services (including mental health, substance abuse, developmental disabilities, and housing) to improve access and deliver a range of services to children and their families.

(2) The State's CFSP must describe how services under the plan will be coordinated over the five-year period with services or benefits under other Federal or federally assisted programs serving the same populations to achieve the goals and objectives in the plan. The description must include the participants in the process and examples of how the process led or will lead to additional coordination of services (e.g., integrated service models, improved accessibility, use of a consolidated application or intake form, inter-disciplinary training, coordinated case management for several programs, pooled resources through blended financing, shared information across services providers and compatible and linked automated information systems, co-location of several services or programs.)

(3) The Indian Tribe must include in the coordination process representatives of other Federal or federally assisted child and family services or related programs. The Indian Tribe's CFSP must describe how services under the plan will be coordinated over the five-year period with services or benefits under other Federal or federally assisted programs serving the same populations to achieve the goals and objectives in the plan. The descriptions must include the participants in the process and any examples of how the process led or will lead to additional coordination of services.

(n) *Services.* (1) The State's CFSP must describe the publicly funded child and family services continuum: child welfare services (including child abuse and neglect prevention, intervention, and treatment services; and foster care); family preservation services; family support services; and services to support reunification, adoption, kinship care, independent living, or other permanent living arrangements.

(2) The Indian Tribe's CFSP must describe the child welfare services (including child abuse and neglect prevention, intervention, treatment services and foster care) and/or the family support and family preservation services to be provided.

(3) For each service described, the CFSP must include the following information, or it must be listed on the CFS–101, Part II:

(i) The population(s) to be served;

(ii) The geographic area(s) where the services will be available;

(iii) The estimated number of individuals and/or families to be served;

(iv) The estimated expenditures for these services from Federal, State, local, and donated sources, including title IV–B, subparts 1 and 2, the CAPTA program referenced in paragraph (a) of this section, and the independent living program.

(o) *Family preservation and family support services and linkages to other social and health services.* (1) The State's CFSP must explain how the funds under title IV–B, subpart 2 of the Act, will be used to develop or expand family support and family preservation services; how the family support and

family preservation services relate to existing family support and family preservation services; and how these family support and preservation services will be linked to other services in the child and family services continuum.

(2) The State's CFSP must explain whether and/or how funds under the CAPTA and independent living programs are coordinated with and integrated into the child and family services continuum described in the plan.

(3) The State's CFSP must describe the existing or current linkages and the coordination of services between the services in the child and family services continuum and the services in other public services systems (e.g., health, education, housing, substance abuse, the courts), and other Federal and non-federally funded public and nonprofit private programs (e.g., Children's Trust Funds, Community-Based Family Resource Programs, private foundations.)

(p) *Services in relation to service principles.* The CFSP must describe how the child and family services to be provided are designed to assure the safety and protection of children as well as the preservation and support of families, and how they are or will be designed to be consistent with the other service principles in 45 CFR 1355.25.

(q) *Services in relation to permanency planning.* For States administering both title IV–B programs (subparts 1 and 2), the CFSP must explain how these services will help meet the permanency provisions for children and families in sections 422(b)(9) and 471 of the Act (e.g., preplacement preventive services, reunification services, independent living services.) The CFSP must describe the arrangements, jointly developed with the Indian Tribes within its borders, made for the provision of the child welfare services and protections in section 422(b)(9) to Indian children under both State and Tribal jurisdiction.

(r) *Decision-making process: selection of family support programs for funding.* The State's CFSP must include an explanation of how agencies and organizations were selected for funding to provide family support services and how these agencies and organizations meet the requirement that family support services be community-based.

(s) *Significant portion of funds used for family support and family preservation services.* With each fiscal year's budget request, each State must indicate the specific percentage of family preservation and family support funds (title IV–B, subpart 2) that the State will expend for community-based family support and for family preservation services, and the rationale for the decision. The State must have an especially strong rationale if the request for either percentage is below 25 percent. It must also include an explanation of how this distribution was reached and why it meets the requirements that a ''significant portion'' of the service funds must be spent for each service. Examples of important considerations might include the nature of the planning efforts that led to the decision, the level of existing State effort in each area, and the resulting need for new or expanded services.

(t) *Staff training, technical assistance, and evaluation.* (1) The State's CFSP must include a staff development and training plan in support of the goals and objectives in the CFSP which addresses both of the title IV–B programs covered by the plan. This training plan also must be combined with the training plan under title IV–E as required by 45 CFR 1356.60(b)(2). Training must be an on-going activity and must include content from various disciplines and knowledge bases relevant to child and family services policies, programs and practices. Training content must also support the cross-system coordination consultation basic to the development of the CFSP.

(2) The State's CFSP must describe the technical assistance activities that will be undertaken in support of the goals and objectives in the plan.

(3) The State's CFSP must describe any evaluation and research activities underway or planned with which the State agency is involved or participating and which are related to the goals and objectives in the plan.

(u) *Quality assurance.* The State must include in the CFSP a description of the quality assurance system it will use to regularly assess the quality of services under the CFSP and assure that there will be measures to address identified problems.

(v) *Distribution of the CFSP and the annual progress and services report.* The CFSP must include a description of how the State and the Indian Tribe will make available to interested parties the CFSP and the Annual Progress and Services Report. (See 45 CFR 1355.21(c) and 45 CFR 1357.16(d)). State agencies and Indian Tribal organizations within the State must exchange copies of their CFSPs and their annual services reports.

14. A new § 1357.16 is added to read as follows:

§ 1357.16 Annual progress and services reports.

(a) *Annual progress and services reports.* Annually, each State and each Indian Tribe must conduct an interim review of the progress made in the previous year toward accomplishing the goals and objectives in the plan, based on updated information. In developing paragraphs (a)(2) through (a)(4) of this section, the State and the Indian Tribe must involve the agencies, organizations, and individuals who are a part of the on-going CFSP-related consultation and coordination process. On the basis of this review, each State and Indian Tribe must prepare and submit to ACF, and make available to the public, an Annual Progress and Services Report which must include the following—

(1) A report on the specific accomplishments and progress made in the past fiscal year toward meeting each goal and objective, including improved outcomes for children and families, and a more comprehensive, coordinated, effective child and family services continuum;

(2) Any revisions in the statement of goals and objectives, or to the training plan, if necessary, to reflect changed circumstances;

(3) For Indian Tribes, a description of the child welfare and/or family preservation and family support services to be provided in the upcoming fiscal year highlighting any changes in services or program design and including the information required in 45 CFR 1357.15(n);

(4) For States, a description of the child protective, child welfare, family preservation, family support, and independent living services to be provided in the upcoming fiscal year highlighting any additions or changes in services or program design and including the information required in 45 CFR 1357.15(n);

(5) Information on activities in the areas of training, technical assistance, research, evaluation, or management information systems that will be carried out in the upcoming fiscal year in support of the goals and objectives in the plan;

(6) For States only, the information required to meet the maintenance of effort (non-supplantation) requirement in section 432(a) (7) and (8) of the Act;

(7) For States and eligible Indian Tribes phasing in requirements for a consolidated CFSP, information on activities and progress directed toward a consolidated plan by June 30, 1996 or 1997. The report must include information that demonstrates States' and eligible Indian Tribes' progress

toward the consolidation of a CFSP, including activities that have been accomplished and still need to be accomplished; and

(8) Any other information the State or the Indian Tribe wishes to include.

(b) *Submittal of the annual progress and services report and CFS–101.* (1) The State and the Indian Tribe must send the Annual Progress and Services Report and the CFS–101 to the appropriate ACF Regional Office no later than June 30 of the year prior to the fiscal year in which the services will be provided (e.g., the report submitted and made public by June 30, 1996 will describe the services to be provided in FY 1997. The report covering FY 1998 services must be submitted by June 30, 1997.)

(2) In order for States and eligible Indian Tribes to receive title IV–B, subparts 1 and 2 allocations a CFS–101 must be submitted for each fiscal year.

(3) States and Indian Tribes which have consolidated the requirements for title IV–B, subparts 1 and 2, must submit the CFS–101 to the appropriate ACF Regional Office no later than June 30 of the year prior to the fiscal year in which the services will be provided (e.g., for FY 1997 allocations, the CFS–101 must be submitted by June 30, 1996; for FY 1998 allocations, the CFS–101 must be submitted by June 30, 1997.)

(4) States and eligible Indian Tribes choosing to phase-in the requirements for a consolidated CFSP must:

(i) Submit by June 30, 1996 a CFS–101 for title IV–B, subpart 1 for FY 1996 allocations; a CFS–101 for title IV–B, subpart 2 for FY 1997 allocations; and, if a State or eligible Indian Tribe chooses, a CFS–101 for subpart 1 FY 1997 allocations.

(ii) Submit by June 30, 1997 a CFS–101 for title IV–B, subpart 1 for FY 1997 allocations, if not previously submitted by June 30, 1996; and a CFS–101 for FY 1998 for subparts 1 and 2 allocations.

(c) *Annual progress and services reports on FY 1994 family support and family preservation services.* Each State and Indian Tribe that used FY 1994 funds under title IV–B, subpart 2, for services must describe in the CFSP what services were provided, the population(s) served, and the geographic areas where services were available. The CFSP also must include the amount of FY 1994 funds used for planning, for family preservation services, for family support services, and a brief statement on how these services met the service priorities of the State or the Indian Tribe.

(d) *Availability of the annual progress and services report.* The State and the Indian Tribe must make the Annual Progress and Services Report available to the public including the agencies, organizations, and individuals with which the State or the Indian Tribe is coordinating services or consulting and to other interested members of the public. Each State and eligible Indian Tribe within the State must exchange copies of their Annual Progress and Services Reports.

(e) *FY 1999 Final Review.* In FY 1999, each State and eligible Indian Tribe must conduct a final review of progress toward accomplishing the goals and objectives in the plan. On the basis of the final review, it must—

(1) Prepare a final report on the progress made toward accomplishing the goals and objectives; and

(2) Send the final report to the ACF Regional Office and make it available to the public.

(f) *FY 2000 Five-Year State Plan.* Based on the FY 1999 final review and final Annual Progress and Services Report, and in consultation with a broad range of agencies, organizations, and individuals, the States and eligible Indian Tribes must develop a new five-year CFSP following the requirements of 45 CFR 1357.15.

15. Section 1357.20 is revised to read as follows:

§ 1357.20 Child abuse and neglect programs.

The State agency must assure that, with regard to any child abuse and neglect programs or projects funded under title IV–B of the Act, the requirements of section 106(b) (1) and (2) of the Child Abuse Prevention and Treatment Act, as amended, are met. These requirements relate to the State plan and assurances required for the Child Abuse and Neglect State Grant Program.

16. Section 1357.30 is revised to read as follows:

§ 1357.30 State fiscal requirements (title IV–B, subpart 1, child welfare services).

(a) *Scope.* The requirements of this section shall apply to all funds allotted or reallotted to States under title IV–B, subpart 1.

(b) *Allotments.* Allotments for each State shall be determined in accordance with section 421 of the Act.

(c) *Payments.* Payments to States shall be made in accordance with section 423 of the Act.

(d) *Enforcement and termination.* In the event of a State's failure to comply with the terms of the grant under title IV–B, subpart 1, the provisions of 45 CFR 92.43 and 92.44 will apply.

(e) *Matching or cost-sharing.* Federal financial participation is available only if costs are incurred in implementing sections 422, 423, and 425 of the Act in accordance with the grants administration requirements of 45 CFR part 92 with the following conditions—

(1) The State's contribution may be in cash, donated funds, and non-public third party in-kind contributions.

(2) The total of Federal funds used for the following purposes under title IV-B, subpart 1 may not exceed an amount equal to the FY 1979 Federal payment under title IV–B:

(i) Child day care necessary solely because of the employment, or training to prepare for employment, of a parent or other relative with whom the child involved is living, plus;

(ii) Foster care maintenance payments, plus;

(iii) Adoption assistance payments.

(3) Notwithstanding paragraph (e)(2) of this section, State expenditures required to match the title IV–B, subpart 1 allotment may include foster care maintenance expenditures in any amount.

(f) *Prohibition against purchase or construction of facilities.* Funds awarded under title IV–B may not be used for the purchase or construction of facilities.

(g) *Maintenance of effort.* (1) A State may not receive an amount of Federal funds under title IV–B in excess of the Federal payment made in FY 1979 under title IV–B unless the State's total expenditure of State and local appropriated funds for child welfare services under title IV–B of the Act is equal to or greater than the total of the State's expenditure from State and local appropriated funds used for similar covered services and programs under title IV–B in FY 1979.

(2) In computing a State's level of expenditures under this section in FY 1979 and any subsequent fiscal year, the following costs shall not be included—

(i) Expenditures and costs for child day care necessary to support the employment of a parent or other relative;

(ii) Foster care maintenance payments; and

(iii) Adoption assistance payments.

(3) A State applying for an amount of Federal funds under title IV–B greater than the amount of title IV–B, subpart 1 funds received by that State in FY 1979 shall certify:

(i) The amount of their expenditure in FY 1979 for child welfare services as described in paragraphs (g) (1) and (2) of this section, and

(ii) The amount of State and local funds that have been appropriated and are available for child welfare services as described in paragraphs (g) (1) and (2)

of this section for the fiscal year for which application for funds is being made. Records verifying the required certification shall be maintained by the State and made available to the Secretary as necessary to confirm compliance with this section.

(h) *Reallotment.* (1) When a State certifies to the Commissioner that funds available to that State under its title IV–B, subpart 1 allotment will not be required, those funds shall be available for reallotment to other States.

(2) When a State, after receiving notice from the Commissioner of the availability of funds, does not certify by a date fixed by the Commissioner that it will be able to expend during the period stated in paragraph (i) of this section all of the funds available to it under its title IV–B, subpart 1 allotment, those funds shall be available for reallotment to other States.

(3) The Commissioner may reallot available funds to another State when it is determined that—

(i) The requesting State's plan requires funds in excess of the State's original allotment; and

(ii) the State will be able to expend the additional funds during the period stated in paragraph (i) of this section.

(i) *Time limit on expenditures.* Funds under title IV–B, subpart 1, must be expended by September 30 of the fiscal year following the fiscal year in which the funds were awarded.

17. A new § 1357.32 is added to read as follows:

§ 1357.32 State fiscal requirements (title IV–B, subpart 2, family preservation and family support services).

(a) *Scope.* The requirements of this section apply to all funds allocated to States under title IV–B, subpart 2, of the Act.

(b) *Allotments.* The annual allotment to each State shall be made in accordance with section 433 of the Act.

(c) *Payments.* Payments to each State will be made in accordance with section 434 of the Act.

(d) *Matching or cost sharing.* Funds used to provide services in FY 1994 and in subsequent years will be federally reimbursed at 75 percent of allowable expenditures. (This is the same Federal financial participation rate as title IV–B, subpart 1.) Federal funds, however, will not exceed the amount of the State's allotment.

(1) The State's contribution may be in cash, donated funds, and non-public third party in-kind contributions.

(2) Except as provided by Federal statute, other Federal funds may not be used to meet the matching requirement.

(e) *Prohibition against purchase or construction of facilities.* Funds awarded under title IV–B may not be used for the purchase or construction of facilities.

(f) *Maintenance of effort.* States may not use the Federal funds under title IV–B, subpart 2, to supplant Federal or non-Federal funds for existing family preservation and family support services. For the purpose of implementing this requirement, ''non-Federal funds'' means State funds. ACF will collect information annually from each State on expenditures for family support and family preservation using the State fiscal year 1992 as the base year.

(g) *Time limits on expenditures.* Funds must be expended by September 30 of the fiscal year following the fiscal year in which the funds were awarded.

(h) *Administrative costs.* (1) States claiming Federal financial participation for services provided in FY 1994 and subsequent years may not claim more than 10 percent of expenditures under subpart 2 for administrative costs. There is no limit on the percentage of administrative costs which may be reported as State match.

(2) For the purposes of title IV–B, subpart 2, ''administrative costs'' are costs of auxiliary functions as identified through as agency's accounting system which are:

(i) Allocable (in accordance with the agency's approved cost allocation plan) to the title IV–B, subpart 2 program cost centers;

(ii) necessary to sustain the direct effort involved in administering the State plan for title IV–B, subpart 2, or an activity providing service to the program: and

(iii) centralized in the grantee department or in some other agency, and may include but are not limited to the following: Procurement; payroll; personnel functions; management, maintenance and operation of space and property; data processing and computer services; accounting; budgeting; auditing.

(3) Program costs are costs, other than administrative costs, incurred in connection with developing and implementing the CFSP (e.g., delivery of services, planning, consultation, coordination, training, quality assurance measures, data collection, evaluations, supervision).

18. Section 1357.40 is revised to read as follows:

§ 1357.40 Direct payments to Indian Tribal Organizations (title IV–B, subpart 1, child welfare services).

(a) *Who may apply for direct funding?* Any Indian Tribal Organization (ITO) that meets the definitions in section 428(c) of the Act, or any consortium or other group of eligible Tribal organizations authorized by the membership of the Tribes to act for them is eligible to apply for direct funding if the ITO, consortium or group has a plan for child welfare services that is jointly developed by the ITO and the Department.

(b) *Title IV–B Child and Family Services Plan (CFSP).* (1) In order to receive funds under title IV–B, subpart 1, beginning in FY 1995, the Indian Tribe or Tribal organization must have in effect an approved five-year child and family services plan that meets the applicable requirements of § 1357.15 of this part.

(2) The Indian Tribe or Tribal organization must also comply with section 422(b)(1–8) of the Act; 45 CFR part 1355 (except that the requirements in § 1355.30 for a single Tribal agency and Governor's review of the CFSP do not apply); and other applicable requirements of §§ 1357.10 and 1357.16.

(c) *Information related to the requirements of Section 422(b)(9) of the Act.* The following information must be submitted with the assurances required to be eligible for title IV–B, subpart 1 funds:

(1) A description of the arrangements, jointly developed with the State, made for the provision of the child welfare services and protections in section 422(b)(9) to Indian children under both State and Tribal jurisdiction;

(2) A statement of the legal responsibility, if any, for children who are in foster care on the reservation and those awaiting adoption;

(3) A description of Tribal jurisdiction in civil and criminal matters, existence or nonexistence of a Tribal court and the type of court and codes, if any;

(4) An identification of the standards for foster family homes and institutional care and day care;

(5) The Indian Tribal organization's political subdivisions, if any;

(6) Whether the Tribal organization is controlled, sanctioned or chartered by the governing body of Indians to be served and if so, documentation of that fact;

(7) Any limitations on authorities granted to the Indian Tribal organizations; and

(8) The Tribal resolution(s) authorizing an application for a direct title IV–B, subpart 1 grant under this Part.

(d) *Grants: General.* (1) Grants may be made to eligible Indian Tribal organizations in a State which has a jointly developed child and family services plan approved and in effect.

(2) Federal funds made available for a direct grant to an eligible ITO shall be paid by the Department, from the title IV–B allotment for the State in which the ITO is located. Should a direct grant be approved, the Department shall promptly notify the State(s) affected.

(3) If an eligible ITO includes population from more than one State, a proportionate amount of the grant will be paid from each State's allotment.

(4) The receipt of title IV–B funds must be in addition to and not a substitute for funds otherwise previously expended by the ITO for child welfare services.

(5) The following fiscal and administrative requirements apply to Indian Tribal grants under this section:

(i) *Enforcement and termination.* In the event of an Indian Tribe's failure to comply with the terms of the grant under title IV–B, subpart 1, the provisions of 45 CFR 92.43 and 92.44 will apply.

(ii) *Matching or cost-sharing.* Federal financial participation is available only if costs are incurred in implementing sections 422, 423, and 425 of the Act in accordance with the grants administration requirements of 45 CFR part 92 with the following conditions—

(A) The ITO's contribution may be in cash, donated funds, and non-public third party in-kind contributions.

(B) The total of Federal funds used for the following purposes under title IV–B, subpart 1 may not exceed an amount equal to the FY 1979 Federal payment under title IV–B:

(*1*) Child day care necessary solely because of the employment, or training to prepare for employment, of a parent or other relative with whom the child involved is living, plus;

(*2*) Foster care maintenance payments, plus;

(*3*) Adoption assistance payments.

(C) Notwithstanding paragraph (d)(5)(ii)(B) of this section, Tribal expenditures required to match the title IV–B, subpart 1 allotment may include foster care maintenance expenditures in any amount.

(iii) *Prohibition against purchase or construction of facilities.* Funds awarded under title IV–B may not be used for the purchase or construction of facilities.

(iv) *Time limit on expenditures.* Funds under title IV–B, subpart 1, must be expended by September 30 of the fiscal year following the fiscal year in which the funds were awarded.

19. A new § 1357.50 is added to read as follows:

§ 1357.50 Direct payments to Indian Tribal organizations (title IV–B, subpart 2, family preservation and support services).

(a) *Definitions.*

Alaska Native Organization means any organized group of Alaska Natives eligible to operate a Federal program under the Indian Self-Determination Act (Pub. L. 93–638) or such group's designee as defined in section 482(i)(7)(A) of the Act.

Indian Tribe means any Tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and for which a reservation (including Indian reservations, public domain Indian allotments, and former Indian reservations in Oklahoma) exists.

Tribal organization means the recognized governing body of the Indian Tribe.

(b) *Eligibility for funds: FY 1994.* (1) Section 432(b)(2) of the Act provides that the Secretary may not approve a plan of an Indian Tribe whose FY 1995 allotment under subpart 2 would be less than $10,000. Therefore, only those Indian Tribes whose FY 1995 allotment is $10,000 or more are eligible to receive funds beginning in FY 1994.

(2) ACF will pay any amount to which an Indian Tribe is entitled to the Tribal organization of the Indian Tribe.

(c) *Eligibility for funds: FY 1995.* In order to receive funds under title IV–B, subpart 2, in FY 1995, an Indian Tribe that is eligible for planning funds in FY 1994 must submit a Child and Family Services Plan that meets the applicable requirements in section 1357.15 of this Part.

(d) *Eligibility for funds: FY 1996 through FY 1998.* (1) ACF will make grants to additional Indian Tribes in Fys 1996 through 1998 in the event that there are increased appropriations.

(2) Allotments will be calculated in Fys 1996, 1997, and 1998 as required in section 433 of the Act. Those Indian Tribes in each year whose allotment is at least $10,000 will be notified of their eligibility to apply.

(3) In order to receive funds, additional Indian Tribes which become eligible for grants in FY 1996, 1997, and 1998 must submit either a five year Child and Family Services Plan (CFSP) that meets the applicable requirements of 45 CFR 1357.15 or an application for planning funds by June 30 of the year in which they first become eligible for grants. Those Indian Tribes which submitted an application for planning funds in their first year of funding must submit a five year CFSP that meets the applicable requirements of 45 CFR 1357.15 by June 30 of the second year they receive funding. For example, in order to receive funds, an Indian Tribe which becomes eligible to receive funding beginning in FY 1996 must submit either an application for planning funds or a CFSP by June 30, 1996. If the Indian Tribe submitted an application for planning funds in FY 1996, they must submit a CFSP by June 30, 1997.

(4) All Indian Tribes will be Federally reimbursed at 75 percent of allowable expenditures. Federal funds without match are available in the first year of receipt of funds for additional Indian Tribes meeting the following criteria:

(i) Submittal of an application for planning funds, and not a five year CFSP;

(ii) Receipt of an initial award in FY 1996 or 1997 or 1998; and

(iii) A proposal to spend the entire grant in the first year on planning.

(e) *Allotments.* Allotments to Indian Tribes are computed based on section 433 of the Act and are based on a ratio of the number of children in each Indian Tribe with an approved plan compared to the number of children in all Indian Tribes with approved plans, based on the most current and reliable data available.

(f) *Exemptions of requirements.* (1) ACF has exempted Indian Tribes from three statutory requirements:

(i) The limitation on administrative costs to 10 percent of total Federal and Tribal funds— Indian Tribes may use the indirect cost rate agreement in effect for the Tribe;

(ii) The requirement for maintenance of effort that funds under this program may not be used to supplant other Federal and non-Federal funds; and

(iii) The requirement that a significant portion of funds must be used for both family support and family preservation services.

(2) Specific exemptions from other statutory requirements may be requested by the Tribe in the course of its joint planning. Such a request must contain a compelling reason.

(g) *Matching requirement.* (1) Funds used to provide services in FY 1994 and in subsequent years will be federally reimbursed at 75 percent of allowable expenditures. (This is the same Federal financial participation rate as title IV–B, subpart 1.) The Indian Tribe's match must be at least 25 percent of the total project costs or one-third of the Federal share. Federal funds, however, will not exceed the amount of the Indian Tribe's allotment.

(2) The Indian Tribe's contribution may be in cash, donated funds, and non-public third party in-kind contributions.

(3) Indian Tribes, by statute, may use the following three Federal sources of funds as matching funds: Indian Child Welfare Act funds, Indian Self-Determination and Education Assistance Act funds, and Community Development Block Grant funds.

(h) *Time limits on expenditures.* An Indian Tribe must expend all funds by September 30 of the fiscal year following the fiscal year in which the funds were awarded.

[FR Doc. 96–28937 Filed 11–15–96; 8:45 am]
BILLING CODE 4184–01–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 295

[Docket No. R–163]

RIN 2133–AB24

Maritime Security Program

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Extension of comment period on interim final rule.

SUMMARY: Pursuant to the request of a vessel operator, the Maritime Administration (MARAD) is extending the period for commenting on its interim final rule for the Maritime Security Program (MSP).

DATES: Comments must be received on or before December 2, 1996.

ADDRESSES: To be considered, comments must be mailed, delivered in person or telefaxed (in which case an original must subsequently be forwarded) to the Secretary, Maritime Administration, Room 7210, Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590. All comments will be made available for inspection during normal business hours at the above address. Commenters wishing MARAD to acknowledge receipt of comments should enclose a stamped self-addressed envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Raymond R. Barberesi, Director, Office of Sealift Support, Telephone 202–366–2323.

SUPPLEMENTARY INFORMATION: On October 16, 1996, MARAD issued an interim final rule providing procedures to implement the MSP contained in the Maritime Security Act of 1996 (MSA), which was signed by the President on October 8, 1996. Section 2 of the MSA amends Title VI of the Merchant Marine Act, 1936 (Act) and adds a new Subtitle B. It authorizes the MSP to provide assistance for U.S.-flag operators and vessels that meet certain qualifications. Participating vessel operators are required to make their ships and other commercial resources available upon request by the Secretary of Defense during time of war or national emergency.

Sea-Land Services, Inc. has requested an extension of the 30-day comment period expiring on November 15, 1996, Sea-Land submits that the requested extension will allow the preparation of more deliberate comments to assist MARAD in fully implementing the provisions of the MSA. It further states that the expedited pace of the MSP application process has left little time to focus on assisting MARAD in this important rulemaking process.

Accordingly, MARAD is extending the comment period until December 2, 1996.

By Order of the Maritime Administrator.

Dated: November 14, 1996.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 96–29596 Filed 11–15–96; 8:45 am]
BILLING CODE 4910–81–P

Proposed Rules

Federal Register
Vol. 61, No. 223
Monday, November 18, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Chapter III

[Docket No. 95–041N]

Withdrawal of Obsolete Proposed Rules

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of withdrawal.

SUMMARY: The Food Safety and Inspection Service (FSIS) is withdrawing a number of regulatory proposed rules published in the Federal Register at various times between 1969 and 1993, but never promulgated as final rules. These proposed rules cover a wide range of issues, including labeling, inspection operations, and added substances. All have either become obsolete or have been superseded by other rulemakings.

ADDRESSES: Send comments to: FSIS Docket Clerk, DOCKET # 95–041N, Room 3806, 1400 Independence Avenue, SW, Washington, DC 20250–3700. Any comments received will be available for public inspection in the FSIS Docket Room from 8:30 a.m. to 1:00 p.m. and from 2:00 p.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Dr. Paula M. Cohen, Director, Regulations Development, Policy, Evaluation and Planning Staff; (202) 720–7164.

SUPPLEMENTARY INFORMATION: FSIS is in the process of conducting a comprehensive review of its regulatory procedures and requirements to determine which are still needed and which should be modified, streamlined, or eliminated. This review is needed to prepare for the implementation of the Agency's final rule, ''Pathogen Reduction; Hazard Analysis and Critical Control Point (HACCP) Systems'' (61 FR 38805, July 25, 1996) and FSIS's new food safety strategy. FSIS is revising its regulations to reduce reliance on command-and-control regulations by shifting, wherever possible, to performance standards.

As part of its regulatory reform initiative, FSIS examined proposed rules published over the last 25 years in the Federal Register which, for a variety of reasons, were never promulgated in final form. These proposed rules covered a wide range of issues, including labeling, inspection operations, and added substances. FSIS determined that 45 of these proposals were either superseded by other rulemakings or obsolete under FSIS's new food safety strategy and should be withdrawn.

FSIS is officially withdrawing the following proposed regulations:

1. ''Inedible Animal Fats-Federal Meat Inspection Regulation Requirements'' (1/16/69; 34 FR 207)
2. ''Retail Meat Stores and Restaurants in the District of Columbia'' (2/12/69; Extended: 34 FR 15362)
3. ''Reinspection and Preparation of Product'' (2/21/69; 34 FR 2506)
4. ''Labels of Meat Food Products-Proper Use of the term 'FARM' or Similar Terms'' (4/15/69; 34 FR 6538)
5. ''Inspection of Poultry Products'' (5/27/72; 36 FR 9716)
6. ''Reinspection and Preparation of Products'' (2/4/70; 35 FR 2527)
7. ''Meat Cuts and Chopped Meat Products-Injection or Mixing of Water Base Solutions'' (10/8/70; 35 FR 15387)
8. ''Overtime or Holiday Inspection Service-Proposed Schedules of Operations (12/12/72; 37 FR 26429)
9. ''Inspection of Foreign Canned or Packaged Products'' (4/23/73; 38 FR 29215)
10. ''Definition of Importation'' (4/20/73, 38 FR 9829; 40 FR 42338)
11. ''Requirements for Meat Patties and Meat Patty Mixes and Similar Articles'' (5/4/73; 48 FR 52697)
12. ''Official Inspection Marks'' (6/20/73; 38 FR 16077)
13. ''Meatballs and Similar Products'' (7/13/73; 38 FR 18683)
14. ''Labeling Policy for Cured Products'' (8/10/73; 38 FR 21648)
15. ''Federally Inspected Poultry Products-Labeling and Official Marks'' (6/20/74; Extended: 39 FR 22152)
16. ''Certain Products with Meat Ingredients'' (10/2/73; 38 FR 27298)
17. ''Meat Plant Quality Control Programs'' (1974; Extended: 39 FR 10914)
18. ''Poultry Plant Quality Control Programs'' (1974; Extended: 39 FR 10914)
19. ''Information Panel and Nutrition Labeling'' (1/11/74; 39 FR 1606)
20. ''Dry Milk Products Intended for Use as Ingredients of Poultry Food Products'' (2/1/74; 39 FR 4113)
21. ''Interpretation of Term 'Meat' '' (3/21/74; 39 FR 10598)
22. ''Representations Regarding Geographical Origin'' (11/27/74; 39 FR 41318 and 42339)
23. ''Oleo Stock and Edible Tallow'' (5/14/76; 41 FR 19971)
24. ''Standards for Cooked Poultry Sausages'' (7/27/76; 41 FR 31226)
25. ''Exemptions Based on Religious Dietary Laws'' (9/7/76; 41 FR 37592)
26. ''Canning of Meat and Poultry Products'' (9/17/76; 41 FR 40156)
27. ''Water in Poultry Chillers'' (4/4/78; 43 FR 14043)
28. ''Charges for Inspection for Export Certification'' (10/27/78; 43 FR 50188)
29. ''Procedures for Prior Label Approval'' (2/26/80; 45 FR 12442)
30. ''Bacon made with Dry Curing Materials'' (6/27/80; 45 FR 43425)
31. ''Net Weight Labeling'' (8/8/80; 45 FR 53002)
32. ''Sale, Transportation, and Marking of Meat and Meat Food Products'' (7/31/81; 46 FR 39159)
33. ''Reimbursement for Preparation and Cleanup Time'' (5/7/82; 47 FR 19701)
34. ''Definitions and Standards of Identity or Composition for Misc. Pork Products and Misc. Beef Products'' (4/13/83; 48 FR 15927)
35. ''Labeling for Meat and Poultry Products with Cheese Substitutes; Revised Pizza Standard'' (8/5/83; 48 FR 35654)
36. ''Transportation of Inedible Product for Use as Animal Food'' (8/8/83; 48 FR 35884)
37. ''New Line Speed Inspection System for Broilers and Cornish Hens'' (1/20/84; 49 FR 2473)
38. ''Total Plant Quality Control for Labeling'' (9/25/85; 50 FR 38824)
39. ''Disposal of Livestock Carcasses and Parts Condemned for Biological Residues'' (6/8/87; 52 FR 21561)
40. ''Control of Added Substances and Labeling Requirements for Turkey Ham Products'' (2/21/89; 54 FR 7434)
41. ''Additional Methods for Destroying Trichinae'' (4/20/89; 54 FR 15946)
42. ''Ante-Mortem Inspection of Disabled Animals and Other Animals Unable to Move on Transport Vehicles'' (10/22/89; 55 FR 42578)

43. ''Preventing Cross-Contamination of Meat Products Heat-Processed to 130 Degrees F. or Higher and Poultry Products Processed to 155 Degrees F. or Higher by Other Products not Similarly Heat Processed'' (8/14/91; 56 FR 40274)

44. ''Streamlined Inspection System-Cattle and Staffing Standards'' (11/30/88; 53 FR 48262)

45. ''Policy for Differentiating Between Calves and Adult Cattle'' (8/27/93; 58 FR 45296)

Comments regarding the withdrawl of these proposed rules should be sent to the FSIS Docket Clerk (see **ADDRESSES**). If needed, FSIS will publish another notice addressing any comments received.

Done at Washington, DC on November 12, 1996.

Thomas J. Billy,

Administrator.

[FR Doc. 96–29448 Filed 11–15–96; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM–134; Notice No. SC–96–7–NM]

Special Conditions: Empresa Brasileira de Aeronautica S.A., (EMBRAER) Model EMB–145 Airplane; Thrust Reverser Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Empresa Brasileira de Aeronautica S.A., (EMBRAER) Model EMB–145 airplane. This airplane will have a novel or unusual design feature associated with thrust reversers as optional equipment. This notice contains the additional safety standards which the Administrator considers necessary to establish a level of safety equivalent to that established by the airworthiness standards of Part 25 of the Federal Aviation Regulations (FAR).

DATES: Comments must be received on or before January 2, 1997.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attention: Rules Docket (ANM–7), Docket No. NM–134, 1601 Lind Avenue SW, Renton, Washington 98055–4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM–134. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Colin Fender, FAA, Flight Test and Systems Branch of the Transport Standards Staff, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW, Renton, Washington 98055–4056; telephone 206–227–2191.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before further rulemaking action on this proposal is taken. The proposals contained in this notice may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested parties. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NM–134.'' The postcard will be date/time stamped and returned to the commenter.

Background

EMBRAER first made application for a US Type Certificate for the Model EMB–145 on August 30, 1989, to the FAA Atlanta Aircraft Certification Office through the Brazilian Centro Técnico Aeroespacial (CTA). On June 2, 1992, EMBRAER filed for an extension of that application. The EMB–145 is a 50 passenger, pressurized, low-winged, ''T'' tailed, transport category airplane with retractable tricycle type landing gear. The airplane is powered by two Allison Model AE3007A high bypass ratio turbofan engines mounted on the aft fuselage, which are controlled by a Full Authority Digital Engine Control (FADEC). The cockpit will include a complete set of Electronic Flight Instrumentation and Engine Indication and Crew Alerting Systems (EFIS and EICAS).

EMBRAER has proposed to certificate and market the EMB–145 with thrust reversers as optional equipment. Thrust reversers have been shown to play a significant role in reducing accelerate-stop distances on wet and contaminated runways and have contributed to the transport category airplane fleet's accelerate-stop safety record.

The establishment of the transport category airplane safety record, with regard to accelerate-stop and landing overruns, is tied to the availability of auxiliary braking means that are independent of wheel-brake, tire, and runway surface interaction. On early transport category airplanes with propellers driven by reciprocating engines or turbine power plants, auxiliary braking was provided by commanding the propellers to a reverse pitch position, causing a deceleration, rather than acceleration, of air through the propeller disk. Due to the large diameter of the propellers, this was quite an effective braking means. Though these early transport did not have the high operating speeds of today's jet fleet, they also did not benefit from the sophisticated wheel-brake antiskid systems available today. As runway friction conditions degrade to those associated with a surface covered by ice, even today's antiskid systems will provide little in the way of stopping force. As runway friction conditions degrade, the braking contribution of reverse pitch systems increase considerably.

As the first generation turbojet-powered transport category airplanes went into service in the latter half of the 1950s, thrust reverser systems were developed to provide this same type of auxiliary braking as reverse pitch propellers by reversing the engine exhaust flow. As powerplant technology evolved and low bypass ratio turbofan engines entered commercial service in the early 1960's, thrust reversers were developed to reverse both the fan and core exhaust flows, thus maintaining the availability of auxiliary braking. With the advent of large high bypass ratio turbofan engines in the late 1960s, many thrust reverser systems reversed the fan exhaust flow only, which provided a substantial auxiliary braking effect due to the majority of the total inlet flow going through the fan section. Numerous test programs, by both research organizations and aerospace manufacturers, have substantiated the increased stopping benefit provided by thrust reversers as runway surface friction conditions deteriorate.

The vast majority of jet-powered transport category airplanes in service have been of the large, passenger carrying variety. Research shows that with the exception of a very limited number of airplane types, some of which had considerably slower takeoff and landing speeds than their counterparts, all these large, passenger carrying, turbojet/turbofan-powered transports included thrust reverser systems as part of their basic design (i.e., as standard equipment). The last such aircraft certified without thrust reversers as part of the basic design was the British Aerospace 146 (BAE 146) in 1983. When the sheer numerical majority of these large transports is combined with their high-use operating environment, often requiring takeoffs and landings to be made on slippery runway surfaces, it is clear that thrust reversers must have played a role in establishing their excellent safety record.

It should also be noted that as the number of small transport category airplanes in service has increased, notably corporate jets and regional airliners, there has been an increasing tendency for these airplanes to be equipped with some type of thrust reversing system. Nearly all the regional airliners are turbopropeller-powered with reverse pitch capability, and an increasing number of corporate jets include thrust reversers as standard equipment.

The accelerate-stop and landing distances presented in the FAA approved Airplane Flight Manual (AFM) are determined from measurements of the various influential parameters taken during certification flight tests. These flight tests are accomplished by FAA test pilots (or manufacturers' Designated Engineering Representative (DER) test pilots) under controlled conditions on dry runways. In the operational environment, even on dry runways, the ability of an airplane to match the AFM accelerate-stop performance is based on many factors, including the correct and timely execution of procedures by the pilot and maximum stopping performance being available from the wheel braking system. As runway surface conditions degrade to wet, contaminated, or icy, the accompanying reduction in available friction will result in an increase in stopping distances, causing the wet runway accelerate-stop distances to exceed the dry runway accelerate-stop distances published in the AFM. Obviously, if the takeoff's runway length-limited as determined from the dry runway AFM accelerate-stop distances, and the runway surface is anything but dry, the probability for an overrun accident is increased significantly. (This increased risk factor is acknowledged for the landing scenario in Part 121 of the FAR, the operating rules for air carriers and commercial operators of large aircraft, which requires an increase in the landing field length required for landings on wet runways.)

In the operating conditions described above, any additional braking means, such as thrust reversers, will be beneficial. This is particularly true since the braking contribution of reverse thrust increases as runway surface friction decreases. This inverse relationship between reverse thrust braking contribution and runway surface friction is further enhanced as ground speed increases.

Since 1990 the Transport Airplane Directorate (TAD) has been developing new Part 25 accelerate-stop criteria that includes accountability for the degradation in stopping force due to wet runway surfaces. Test results obtained from several research organizations showed a fixed stopping distance factor of two, relative to dry runway stopping distances, to be representative of what could be expected in normal operations. The proposed accelerate-stop standards, published as Notice of Proposed Rulemaking (NPRM) 93–8, assumed a similar degradation in braking by prescribing a wet/dry braking coefficient of friction ratio of one-half (i.e., μWET=0.5 μDRY) as the primary basis for calculating wet runway accelerate-stop distances. An integral part of the proposed wet runway accelerate-stop rule is credit for the amount of reverse thrust available (provided certain reliability and controllability criteria are met).

The accelerate-stop certification basis for the EMB–145 is § 25.109 of the FAR as amended by Amendment 25–42, effective March 1, 1978. Thrust reversing systems are not required by the FAR, and when installed, no performance credit is granted for their availability in the dry runway accelerate-stop distances required by § 25.109, as amended by Amendment 25–42, effective March 1, 1978. This airworthiness regulation only addresses dry runway performance and does not require thrust reversers or give performance credit for their availability. The vast majority of transport category airplanes in service at the time the regulatory changes of Amendment 25–42 were promulgated were equipped with thrust reversers. Consequently, the certification of transport category airplanes intended to be operated in Part 121-type commercial service without thrust reversers was not envisaged at the time Amendment 25–42 was promulgated.

In consideration of the intended operation of the EMB–145, the FAA considers the non inclusion of thrust reversers into the basic airplane to be an unusual design feature that is not adequately addressed by the airworthiness regulations of Part 25 of the FAR and therefore proposes to apply a special condition to the EMB–145 in accordance with § 21.16 of the FAR. In accordance with the preamble material to Amendment 25–54 (page 274), addressing the definition of a novel or unusual design feature (as used in § 21.16), the non inclusion of thrust reversers in the basic EMB–145 design can be considered a ''novel or unusual design feature since such designs were not envisaged at the time the current airworthiness standard (i.e., § 25.109, Amendment 25–42) was developed. This application requires the development of requirements not fully addressed by Part 25 nor by any published FAA guidance.

These special conditions provide all the necessary requirements to determine acceptability of the EMB–145 without the incorporation of thrust reversers.

Type Certification Basis

Under the provisions of § 21.101, Empresa Brasileira de Aeronautica S.A., must show that the Model EMB–145 meets the applicable regulations in effect on the date of application for the Model EMB–145. In addition, the certification basis includes certain other special conditions not relevant to this proposed special condition.

In addition, if the regulations incorporated by reference do not provide adequate standards will respect to the change, the applicant must comply with certain regulations in effect on the date of application for the change. The FAA has determined that the Model EMB–145 airplane must also be shown to comply with Part 25 as amended by Amendments 25–1 through 25–75.

If the Administrator finds that the applicable airworthiness regulations (i.e., Part 25 as amended) do not contain adequate or appropriate safety standards for the Model EMB–145 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

In addition to the applicable airworthiness regulation and special condition, the Model EMB–145 must comply with the fuel vent and exhaust emission requirements of Part 25 and the noise certification requirements of Part 36.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Model EMB–145 will have an unusual design feature which is the lack of incorporation of thrust reversers as standard equipment.

As described above, these special conditions are applicable to the EMB–145. Should Empresa Brasileira de Aeronautica S.A. apply at a later date for a change to the type of certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability, and it affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Air Transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Empresa Brasileira de Aeronautica S.A., Model EMB–145 airplanes.

1. Require Embraer to account for the effect of wet runway surfaces on accelerate-stop distances for the Model EMB–145 in accordance with criteria contained in NPRM 93–8 and its associated guidance.

2. Takeoff limitations for operation of the EMB–145 on wet runway surfaces must be predicted on the wet runway accelerate-stop criteria contained in NPRM93–8.

Issued in Renton, Washington, on November 7, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 96–29481 Filed 11–15–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 96–NM–52–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This proposal would require a one-time inspection to detect corrosion and cracking of the upper deck floor beam at station 980, and repair, if necessary. This proposal is prompted by reports of extensive corrosion found at station 980. Analysis of the corrosion indicated that fatigue cracking of the floor beam at this area could occur and cause the beam to break. The actions specified by the proposed AD are intended to detect and correct such corrosion and/or cracking, which could cause the floor beam to break and result in extensive damage to adjacent structure and possible rapid decompression of the airplane.

DATES: Comments must be received by December 30, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–52–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Bob Breneman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2776; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–52–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–52–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of corrosion found under the threshold attached to the floor beam at the cart lift cutout in the upper deck floor at station 980 on several Boeing Model 747–300 and –400 series airplanes. The corrosion occurred where the stainless steel threshold contacts the aluminum floor structure. Analysis of an extensively corroded section of the station 980 floor beam, which had been removed from a 7-year old Model 747–400 series airplane, revealed that fatigue cracking could initiate at the corroded area and could propagate. The analysis further indicated that the floor beam could break at approximately 1,500 flight cycles after cracking was initiated. At

this time, the FAA has not received any reports of cracking of the floor beam due to corrosion at station 980. However, such corrosion and potential cracking, if not detected and corrected in a timely manner, could cause the upper deck floor beam at station 980 to break, and would result in extensive damage to adjacent structure and possible rapid decompression of the airplane.

Similar Models Subject to the Unsafe Condition

Upper deck cart lifts installed at station 980 on Boeing Model 747–300 and –400 series airplanes are identical to those cart lifts installed at station 980 on other Model 747 series airplanes; therefore, all of these models may be subject to this same unsafe condition.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–53A2400, dated December 21, 1995, which describes procedures for a one-time detailed visual inspection to detect corrosion and/or fatigue cracking of the upper deck floor beam at station 980 with the cart lift threshold removed, and repair, if necessary. For older airplanes, the alert service bulletin describes alternative procedures that include a detailed visual inspection to detect corrosion and/or fatigue cracking of the upper deck floor beam at station 980 with the cart lift threshold installed, followed later by a detailed visual inspection with the cart lift threshold removed; and repair, if necessary.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a one-time detailed visual inspection to detect corrosion and/or fatigue cracking of the upper deck floor beam at station 980 with the cart lift threshold removed, and repair, if necessary. The proposed AD also would provide an alternative inspection method for older airplanes, which includes a detailed visual inspection to detect corrosion and/or fatigue cracking of the upper deck floor beam at station 980 with the cart lift threshold installed, followed later by an inspection with the cart lift threshold removed, and repair, if necessary. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.

Difference Between the Proposed AD and Referenced Service Bulletin

Operators should note that Boeing Alert Service Bulletin 747–53A2400, dated December 21, 1995, advises that, if an operator has performed the modification work and has applied sealant under the cart lift threshold as specified in Boeing Service Bulletin 747–53–2327, the inspection described in Boeing Alert Service Bulletin 747–53A2400 is not necessary. However, the FAA has determined that Boeing Service Bulletin 747–53–2327 does not provide adequate instructions to apply sealant under the threshold. Therefore, the FAA does not consider the accomplishment of Boeing Service Bulletin 747–53–2327 to be an alternative to the requirements of this proposed AD.

Cost Impact

There are approximately 195 Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 28 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 19 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $31,920, or $1,140 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 96–NM–52–AD.

Applicability: Model 747–300 and –400 series airplanes having line numbers up to and including 843, and Model 747 series airplanes modified to a stretched upper deck configuration; on which an upper deck cart lift has been installed at station 980; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct corrosion and consequent fatigue cracking of the upper deck floor beam at station 980, which could cause the floor beam to break and, consequently, result in extensive damage to adjacent structure and possible rapid decompression of the airplane; accomplish the following:

(a) Perform a one-time detailed visual inspection to detect corrosion and/or fatigue cracking of the upper deck floor beam at station 980 with the cart lift threshold removed, in accordance with Boeing Alert Service Bulletin 747–53A2400, dated

December 21, 1995, at the time specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable.

Note 2: Boeing Alert Service Bulletin 747–53A2400, dated December 21, 1995, specifies that the inspection described in the alert service bulletin need not be accomplished on airplanes on which the actions described in Boeing Service Bulletin 747–53–2327 have been accomplished. However, this AD requires that the inspection described in the alert service bulletin be accomplished regardless of accomplishment of the actions specified in Boeing Service Bulletin 747–53–2327. Where there are differences between this AD and the alert service bulletin, the requirements of the AD prevails.

(1) For airplanes that, as of the effective date of this AD, have accumulated less than 6 years since date of delivery of the airplane or since installation of a stretched upper deck (SUD): Accomplish the inspection at the later of the times specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(i) Within 6 years since date of delivery of the airplane or since installation of a SUD, whichever occurs first. Or

(ii) Within 1,500 flight cycles after the effective date of this AD.

(2) For airplanes that, as of the effective date of this AD, have accumulated 6 or more years, but less than 10 years, since date of delivery of the airplane or since installation of a SUD: Accomplish the inspection within 1,500 flight cycles or 18 months after the effective date of this AD, whichever occurs first.

(3) For airplanes that, as of the effective date of this AD, have accumulated 10 or more years of service since the time of initial delivery, or since the time of installation of the SUD: Except as provided by paragraph (c) of this AD, accomplish the inspection within 9 months or within 750 flight cycles after the effective date of this AD, whichever occurs first.

(b) If any corrosion or cracking is detected during the inspection required by paragraph (a) of this AD: Prior to further flight, repair the corrosion and/or cracking, and apply sealant between the threshold and the upper deck floor beam at station 980, in accordance with Boeing Alert Service Bulletin 747–53A2400, dated December 21, 1995.

(c) For airplanes that, as of the effective date of this AD, have accumulated 10 or more years of service since the time of initial delivery, or 10 or more years of service since the installation of a SUD: In lieu of accomplishing the requirements of paragraph (a) of this AD, within 9 months after the effective date of this AD, perform a one-time detailed visual inspection to detect corrosion of the upper deck floor beam at station 980 with the cart lift threshold installed, in accordance with Boeing Alert Service Bulletin 747–53A2400, dated December 21, 1995.

(1) If no corrosion or cracking is detected: Within 18 months or 1,500 flight cycles after the effective date of this AD, whichever occurs first, remove the cart lift threshold and perform a visual inspection to detect any corrosion or cracking of the upper deck floor beam at station 980. If any corrosion or cracking is detected, prior to further flight, repair the corrosion and/or cracking, and apply sealant between the threshold and the upper deck floor beam at station 980; in accordance with the alert service bulletin.

(2) If any corrosion or cracking is detected: Prior to further flight, remove the cart lift threshold and perform a detailed visual inspection to detect any corrosion or cracking of the upper deck floor beam at station 980; repair any corrosion and/or cracking detected; and apply sealant between the threshold and the upper deck floor beam at station 980; in accordance with the alert service bulletin.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on November 8, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–29418 Filed 11–15–96; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–NM–71–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–200, –300, and –400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747–200, –300, and –400 series airplanes. This proposal would require repetitive inspections to detect cracking of the front spar web of the center section of the wing, and repair, if necessary. This proposal is prompted by reports of fatigue cracking found in the front spar web. The actions specified by the proposed AD are intended to prevent the leakage of fuel into the forward cargo bay, as a result of fatigue cracking in the front spar web, which could result in a potential fire hazard.

DATES: Comments must be received by December 30, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–71–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tamara Dow, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227–2771; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–71–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–71–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that fatigue cracks have been found on several Boeing Model 747–100 series airplanes in the front spar web of the center section of the wing. Two operators reported cracks at the tangent point of the pocket fillet radius running vertically along the edge of the web stiffener. One crack was found while troubleshooting a whistling sound in the cabin that occurred during flight. These cracks were detected on airplanes that had accumulated between 13,932 and 24,264 total landings, and between 27,080 and 37,625 total hours time-in-service.

The manufacturer evaluated trimmed sections of webs that contained cracks. This evaluation revealed that the cracks, which were propagated by fatigue, originated at the tangent point of the pocket fillet radius on the forward surface, spread aft through the thickness of the web, and then radiated vertically.

Because fuel on Model 747–200, -300, and -400 series airplanes is located behind the front spar web, fuel could leak through these cracks into the forward cargo bay. This leakage, if not corrected, could result in a potential fire hazard.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–57A2298 Revision 1, dated September 12, 1996, which describes procedures for conducting repetitive high frequency eddy current (HFEC) inspections to detect cracking of the front spar web along the tangent point of the pocket fillet radii. It also describes procedures for repairing any cracking that is found during an inspection. Additionally, the service bulletin describes procedures for an optional HFEC inspection to confirm cracking, and repair if cracking is confirmed.

Explanation of Requirements of Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require repetitive HFEC inspections to detect cracking of the front spar web along the tangent point of the pocket fillet radii., and repair, if necessary. These inspections and certain repairs would be required to be performed in accordance with the alert service bulletin described previously. Other repairs would be required to be accomplished in accordance with a method approved by the FAA.

The proposed AD also would require that certain operators report initial inspection results, positive or negative, to the FAA. Due to a lack of information about the extent of cracking in the front spar web of airplanes that have accumulated less than 18,000 total landings, this information is needed to determine, among other things, how widespread this occurrence might be among airplanes in this category, the total number of accumulated landings when initial cracking may be occurring, the size of cracking, and other conditions that may contribute to cracking or its propagation.

Interim Action

This proposal is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Explanation of Applicability of Proposed AD

This proposed AD would be applicable only to Boeing Model 747–200, –300, and –400 series airplanes.

Model 747–100, 747SR, and 747SP series airplanes are not included in the applicability of this proposed AD because they have a dry bay located behind the front spar web. This would preclude the type of potential fire hazard situation addressed by this AD. In addition, if the subject fatigue cracking were to occur on these airplanes, the cabin pressure would vent through the front spar web and then the limiting access holes of the front spar; this would result in a loss of pressurization, but not sudden decompression.

Differences Between the Proposed AD and the Alert Service Bulletin

Operators should note that the alert service bulletin indicates that vertical cracks of 10 inches or greater in length, or cracks that extend in a diagonal direction (regardless of length), or cracks that would affect an existing repair, should be repaired in accordance with the manufacturer's instructions. However, the proposed AD would require that these types of cracks be repaired in accordance with a method approved by the FAA.

Cost Impact

There are approximately 485 Model 747–200, –300, and –400 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 105 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 48 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $302,400, or $2,880 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Docket 96–NM–71–AD.

Applicability: Model 747–200, –300, and –400 series airplanes, up to and including line number 744, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the leakage of fuel into the forward cargo bay through fatigue cracks in the front spar web, which could result in a potential fire hazard, accomplish the following:

(a) Perform a high frequency eddy current (HFEC) inspection to detect cracking of the front spar web of the center section of the wing, in accordance with Boeing Alert Service Bulletin 747–57A2298, Revision 1, dated September 12, 1996, at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable.

(1) For airplanes that have accumulated 12,000 to 17,999 total landings as of the effective date of this AD: Within 12 months after the effective date of this AD. Perform this inspection again prior to the accumulation of 18,000 total landings or within 1,400 landings, whichever occurs later, and thereafter at intervals not to exceed 1,400 landings.

(2) For all other airplanes: Prior to the accumulation of 18,000 total landings or within 12 months after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 1,400 landings.

(b) Except as provided by paragraph (c) of this AD, if any cracking is detected during an inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with paragraph (b)(1) or (b)(2) of this AD, as applicable. Thereafter repeat the HFEC inspection required by paragraph (a) of this AD at intervals not to exceed 1,400 landings.

(1) If any vertical crack is found that is less than 10 inches in length, repair in accordance with Boeing Alert Service Bulletin 747–57A2298, Revision 1, dated September 12, 1996.

(2) If any vertical crack is found that is 10 inches or greater in length; or if any crack is found that has extended in a diagonal direction (regardless of length); or if any crack is found that would affect an existing repair; repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(c) In lieu of accomplishing the procedures specified in paragraph (b) of this AD: If a crack in the front spar web is detected during an HFEC inspection required by paragraph (a) of this AD, prior to further flight, operators may accomplish the procedures for an optional HFEC inspection to confirm cracking, as described in paragraph III.D.2. of the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2298, Revision 1, dated September 12, 1996.

(1) If this optional inspection is accomplished and cracking is not confirmed, thereafter repeat the HFEC inspection specified in paragraph (a) of this AD at intervals not to exceed 1,400 landings.

(2) If this optional inspection is accomplished and confirms cracking, prior to further flight, repair the cracking in accordance with paragraph (b)(1) or (b)(2) of this AD, as applicable.

(d) For airplanes that are required to perform an initial HFEC inspection in accordance with paragraph (a)(1) of this AD: Within 30 days after accomplishing the initial inspection, submit a report of inspection results, negative or positive, that includes the information identified in paragraphs (d)(1) through (d)(5) of this AD, to the Manager, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; fax (206) 227–1181. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) Airplane serial number.

(2) Total number of landings accumulated.

(3) Total number of hours time-in-service accumulated.

(4) Location, size and orientation of each crack.

(5) Whether fuel leakage resulted from the crack.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on November 8, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–29417 Filed 11–15–96; 8:45 am]

BILLING CODE 4910–13–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX55–1–6879; FRL–5652–4]

Approval and Promulgation of Air Quality State Implementation Plans (SIP); Texas: Motor Vehicle Inspection and Maintenance (I/M) Program; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed interim rule; extension of the comment period.

SUMMARY: The EPA is extending the comment period for a proposed action published on October 3, 1996, (61 FR 51651) pertaining to the Texas motor vehicle I/M program. On October 3, 1996, EPA proposed a conditional interim approval of an I/M program submitted by the State of Texas under the provisions of the Clean Air Act and the National Highway System Designation Act of 1995. On October 18, October 25, and October 28, 1996, EPA received requests for an extension of the public comment period from 30 days to 90 days until January 3, 1997, to allow for further analysis on the Agency's proposed action. Based on these requests, EPA is extending the comment period from date of signature of this document until January 3, 1997.

DATES: Comments on the October 3, 1996, proposed conditional approval of the Texas I/M program must be received in writing on or before January 3, 1997.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, TX 75202–2733.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Davis, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7584.

SUPPLEMENTARY INFORMATION:

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by

reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: November 4, 1996.

Jane N. Saginaw,

Regional Administrator.

[FR Doc. 96–29359 Filed 11–15–96; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 61, No. 223
Monday, November 18, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Extension of Currently Approved Information Collection for Timber Sale Operating Plans

AGENCY: Forest Service, USDA.

ACTION: Notice of intent; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intent to request an extension of a currently approved information collection for the agency's timber sale operating plans. Forest Service timber sale contracts require purchasers to prepare these operating plans.

DATES: Comments must be received in writing on or before January 17, 1997.

ADDRESSES: All comments should be addressed to: Director, Timber Management, MAIL STOP 1105, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090.

FOR FURTHER INFORMATION CONTACT: Rex Baumback, Timber Management Staff, at (202) 205–0855.

SUPPLEMENTARY INFORMATION:

Description of Information Collection

The following describes the information collection to be extended:

Title: Timber Sale Operating Plans.

OMB Number: 0596–0086.

Expiration Date of Approval: March 31, 1997.

Type of Request: Extension of a previously approved information collection.

Abstract: The information collected is used by the agency to plan the agency timber sale contract administration workload and to determine whether timber sale purchasers have had scheduled operations delayed and are, therefore, eligible for an extension of the contract termination date. Respondents are National Forest System timber sale purchasers who prepare a chart or letter within 60 days of a timber sale contract award, and annually thereafter until the contract has been completed. The timber sale purchaser outlines time frames and methods of accomplishing road construction, timber harvesting, and other contract requirements.

The information is required by timber sale contract provisions in the 2400–6, Timber Sale Contract, and 2400–6T, Timber Sale Contract.

Data gathered in this information collection is not available from other sources.

Estimate of Burden: 30 minutes per response.

Type of Respondents: Individuals, large and small businesses, and corporations purchasing National Forest timber sales.

Estimated Number of Respondents: 5,000 per year.

Estimated Number of Responses per Respondent: 1.5.

Estimated Total Annual Burden on Respondents: 3,750.

The agency invites comments on the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of this agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comments

All comments received in response to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: November 8, 1996.

Valdis E. Mezainis,

Acting Chief.

[FR Doc. 96–29430 Filed 11–15–96; 8:45 am]

BILLING CODE 3410–11–P

Skranak Road Construction Kootenai National Forest, Lincoln County, Montana

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Henry Skranak of Libby, Montana is the owner of record of landlocked private property located in portions of Section 12 and 13, Township 26 North, Range 31 West, Principal Montana Meridian. The Forest Service has received from Skranak a special use permit application for the construction of a dry season road to his property. The Libby Ranger District on the Kootenai National Forest intends to prepare an Environmental Impact Statement (EIS) to assess and disclose the environmental effects of road construction on National Forest. The Skranak decision area is located approximately 26 miles south of Libby, Montana.

The EIS will tier to the Kootenai National Forest Land and Resource Management Plan and Final EIS of September 1987, which provides overall guidance for forest management of the area.

DATE: Written comments and suggestions should be received on or before December 18, 1996.

ADDRESSES: The Responsible Official is Robert L. Schrenk, Forest Supervisor, Kootenai National Forest. Written comments and suggestions concerning the scope of the analysis should be sent to Lawrence A. Froberg, District Ranger, Libby Ranger District, 12557 US Hwy 37 N, Libby Montana, 59923.

FOR FURTHER INFORMATION CONTACT: Jon Jeresek, Interdisciplinary Team Leader, Libby Ranger District. Phone: (406) 293–7773.

SUPPLEMENTARY INFORMATION: The west side of the Skranak property is the common boundary of a portion of the Cabinet Mountains Wilderness. All of the Skranak property and proposed road construction is located within the Inventoried Roadless Area #671—Cabinet Face East. The decision area is occupied grizzly bear habitat.

Proposed Action

The Kootenai National Forest is proposing to issue a Special Use Permit to Henry Skranak to construct a 10 foot wide running surface road and use the

road to access private property. The construction is proposed to begin in 1997. The purpose of the project is to provide reasonable access to private land that is surrounded by National Forest as provided for under Public Law 96–487, the Alaska National Interest Lands Conservation Act (ANILCA). No proposed activities are located in areas considered for inclusion to the National Wilderness Preservation System as recommended by the Kootenai National Forest Plan.

The Kootenai National Forest Land and Resource Management Plan provides overall management objectives in individual delineated management areas (MA's). The decision area is allocated to MA–2, Semi-Primitive Non-Motorized Recreation. Briefly described, MA–2 is managed to provide for the protection and enhancement of areas for roadless recreation use, and to provide for wildlife management where specific values are high. Within grizzly bear habitat, the goal of MA–2 is to provide habitat that will contribute to the recovery of the grizzly bear. Special Uses may be permitted in a case by case basis.

Preliminary Issues

Several preliminary issues of concern have been identified by the Forest Service. These issues are briefly described below:

- Water Quality—How would the proposed action affect sediment production?
- Roadless Areas—The proposed road construction lies entirely within the Cabinet Face East Inventoried Roadless Area #671. What effect would the proposal have on the character of this Roadless Area?
- Grizzly Bear—The decision area lies within the recovery area for the Cabinet/Yaak grizzly bear ecosystem. How would the proposal protect and enhance grizzly bear habitat, and contribute to recovery efforts?
- Fisheries—The proposed road construction would cross Bramlet and 4th of July Creeks which are priority bull trout streams. How would the proposed action affect sediment production and bull trout habitat?
- Heritage Resources—The road construction is proposed to occur over the existing historic 4th of July Trail #115. Can the loss of this resource and associated sites be mitigated?

Forest Plan Amendment

The Kootenai National Forest Land and Resource Management Plan has specific management direction for the Skranak decision area. Prior to making a NEPA decision, a thorough examination of all standards and guidelines of the Forest Plan would be completed and, if necessary, plan exceptions or amendments would be addressed in the EIS.

Decisions To Be Made

The Kootenai Forest Supervisor will decide the following:

Should road construction to the Skranak property be permitted and if so how and where;

What mitigation measures would be required for protection of National Forest resources; and

If Forest Plan exception or amendments are necessary to proceed with the Proposed Action within the decision area.

Public Involvement and Scoping

An open house will be scheduled during the winter 1997, to provide an opportunity for the public to review the proposed action. Consultation with appropriate State and Federal agencies will be initiated. Preliminary effects analysis indicated that the proposed road construction may significantly affect the quality of the human environment. These potential effects prompted the decision to prepare an EIS for the Skranak Road Construction.

This environmental analysis and decision making process will enable additional interested and affected people to participate and contribute to the final decision. Public participation will be requested at several points during the analysis. The Forest Service will be seeking information, comments, and assistance from Federal, State, local agencies, and other individuals or organizations who may be interested in or affected by the proposed projects. This input will be used in preparation of the draft and final EIS. The scoping process will include:

- Identifying potential issues.
- Identifying major issues to be analyzed in depth.
- Exploring additional alternatives which will be derived from issues recognized during scoping activities.
- Identifying potential environmental effects of this project and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).

The analysis will consider a range of alternatives, including the proposed action, no action, and other reasonable action alternatives.

Estimated Dates for Filing

The draft Skranak Road Construction EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by March, 1997. At that time EPA will publish a Notice of Availability of the draft EIS in the Federal Register. The comment period on the draft EIS will be 45 days from the date the EPA publishes the Notice of Availability in the Federal Register.

The final EIS is scheduled to be completed by July, 1997. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal.

Reviewer's Obligations

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS.

To be most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merit of the alternatives discussed. Reviewers may wish to refer to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Responsible Official

Robert L. Schrenk, Forest Supervisor, Kootenai National Forest, 506 US Highway 2 West, Libby, Mt 59923 is the Responsible Official. As the Responsible Official I will decide which, if any, of the proposed projects will be implemented. I will document the decision and reasons for the decision in

the Record of Decision. That decision will be subject to Forest Service Appeal Regulations.

Dated: November 6, 1996.

Robert L. Schrenk,

Forest Supervisor.

[FR Doc. 96–29444 Filed 11–15–96; 8:45 am]

BILLING CODE 3410–11–M

Grain Inspection, Packers and Stockyards Administration

Posting of Stockyards

Pursuant to the authority provided under Section 302 of the Packers and Stockyards Act (7 U.S.C. 202), it was ascertained that the livestock markets named below were stockyards as defined by Section 302 (a). Notice was given to the stockyard owners and to the public as required by Section 302 (b), by posting notices at the stockyards on the dates specified below, that the stockyards were subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

	Facility number, name, and location of Stockyard	Date of posting
AL–188	Centre Livestock Market, Inc., Centre, Alabama	November 9, 1995.
FL–136	Florida Classic Horse Sales, Inc., Ocala, Florida	June 30, 1995.
GA–214	Lee's Auction Sylvania, Georgia	July 1, 1995.
GA–215	Calhoun Stockyard Highway 53, Inc., Calhoun, Georgia	October 25, 1995.
GA–217	Rocking Horse Ranch, Livestock Auction, Poulan, Georgia	October 24, 1996.
MS–169	McDermott Sale Company, Byhalia, Mississippi	October 24, 1996.
MO–279	Joplin Regional Stockyards, Inc., Carthage, Missouri	April 4, 1996.
MO–280	Brookfield Sales Company, Brookfield, Missouri	July 26, 1996.
OR–126	Mike's Livestock Auction, Eagle Point, Oregon	January 1. 1996.
PA–158	John Whiting Auction, New Wilmington, Pennsylvania	June 30, 1995.
SC–154	Double H Livestock, Pelzer, South Carolina	June 11, 1996.

Done at Washington, D.C. this 8th day of November 1996.

Daniel L. Van Ackeren,

Director, Livestock Marketing Division, Packers and Stockyards Programs.

[FR Doc. 96–29475 Filed 11–15–96; 8:45 am]

BILLING CODE 3410–EN–P

Grain Inspection, Packers and Stockyards Administration

Proposed Posting of Stockyard

The Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in Section 302 of the Packers and Stockyards Act (7 U.S.C. 202), and should be made subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

GA–219—Gray Bell Auction Company and Gray Bell Animal Auction, Royston, Georgia

IN–165—Dinky's, Inc., Montgomery, Indiana

SC–155—David Stegall Auction Co., Ridgeville, South Carolina

WY–115—Buffalo Livestock Auction L.L.C., Buffalo, Wyoming.

Pursuant to the authority under Section 302 of the Packers and Stockyards Act, notice is hereby given that it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of said Act.

Any person who wishes to submit written data, views or arguments concerning the proposed designation may do so by filing them with the Director, Livestock Marketing Division, Grain Inspection, Packers and Stockyards Administration, Room 3408–South Building, U.S. Department of Agriculture, Washington, D.C. 20250 by *November 29, 1996.* All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director of the Livestock Marketing Division during normal business hours.

Done at Washington, D.C. this 8th day of November 1996.

Daniel L. Van Ackeren,

Director, Livestock Marketing Division, Packers and Stockyards Programs.

[FR Doc. 96–29474 Filed 11–15–96; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110896A]

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting of the Reef Fish Advisory Panel (AP).

DATES: This meeting will be held on December 13, 1996, from 8:00 a.m. to 4:00 p.m.

ADDRESSES: This meeting will be held at the Doubletree Guest Suites Hotel, 4400 West Cypress Street, Tampa, FL 33607; telephone: 813–873–8675.

Council address: Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: Steven Atran, Population Dynamics Statistician; telephone: 813–228–2815.

SUPPLEMENTARY INFORMATION: The purpose of the meeting will be to review stock assessments and biological information for red snapper, vermilion snapper and amberjacks prepared by NMFS. They will also review reports on the status of these stocks and possible recommendations for levels of acceptable biological catch (ABC) from the Council's Reef Fish Stock Assessment Panel, and on the social and economic implications of recommended ABC ranges from the Socioeconomic Panel. Based on this information, the Reef Fish AP may make recommendations for management measures to the Council. The Reef Fish AP will also discuss options being considered for inclusion in Reef Fish Amendment 15 that would restrict the commercial harvest of reef fish on fishing vessels fishing with traps other than permitted fish traps, stone crab traps or spiny lobster traps.

The AP is comprised of fishermen and other user groups who advise the Council on fishery issues.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to

Anne Alford at the Council (see **ADDRESSES**) by December 6, 1996.

Dated: November 12, 1996.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 96–29468 Filed 11–15–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 110796E]

Mid-Atlantic Fishery Management Council; Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Summer Flounder Monitoring Committee and Scup Monitoring Committee will hold a public meeting.

DATES: The meeting will be held on December 3, 1996. The Summer Flounder Monitoring Committee will meet from 10:00 a.m. until 1:00 p.m. The Scup Monitoring Committee will meet from 2:00 p.m. until 5:00 p.m.

ADDRESSES: This meeting will be held at the Days Inn, 4101 Island Avenue, Philadelphia, PA 19153; telephone: 215–492–0400.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19901; telephone: 302–674–2331.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director; telephone: 302–674–2331.

SUPPLEMENTARY INFORMATION: The purpose of each meeting is to recommend the recreational management measures for summer flounder and scup for 1997.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at 302–674–2331 at least 5 days prior to the meeting date.

Dated: November 12, 1996.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 96–29467 Filed 11–15–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 110196C]

Marine Mammals; Scientific Research Permit No. 1020

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Drs. James T. Harvey and Jenifer Hurley, Moss Landing Marine Laboratories, P.O. Box 450, Moss Landing, CA 95039–0450, (co-investigator: Dr. Daniel P. Costa, Long Marine Laboratory, Center for Marine Studies, University of California, Santa Cruz, CA 95064) have been issued a permit to take marine mammals for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (310/980–4001).

SUPPLEMENTARY INFORMATION: On August 16, 1996, notice was published in the Federal Register (61 FR 42593) that a request for a scientific research permit to obtain beached and stranded California sea lions and take large whales by harassment had been submitted by the above-named individuals. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

Issuance of this permit, as required by the ESA was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: November 4, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–29469 Filed 11–15–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 110796A]

Marine Mammals; Scientific Research Permit (PHF# PHF000815, AAP# 001312-00)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Birgit Winning, Oceanic Society Expeditions, Fort Mason Center, Bldg. E, San Francisco, CA 94123, has applied in due form for a permit to take Hawaiian monk seals (*Monachus schauinslandi*) on Midway Atoll, Hawaii for purposes of scientific research.

DATES: Written comments must be received on or before December 16, 1996.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Southwest Region, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213 (310/980-4001); and

Protected Species Coordinator, Pacific Area Office, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396 (808/973–2987).

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this application would be appropriate.

Concurrent with the publication of this notice in the Federal Register, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222.23).

The applicant proposes to conduct the following scientific research activities on Hawaiian monk seals on Midway

Atoll: behavioral observations, tagging/bleach marking, and necropsies on seals found dead in the wild. The applicant requests this permit for a five year period.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: November 8, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–29470 Filed 11–15–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 110796B]

Marine Mammals; Scientific Research Permit (P772#69)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that the Southwest Fisheries Science Center, National Marine Fisheries Service, 8604 La Jolla Shores Drive, La Jolla, CA 92037, has applied in due form for a permit to take Antarctic pinnipeds for purposes of scientific research.

DATES: Written comments must be received on or before December 18, 1996.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Concurrent with the publication of this notice in the Federal Register, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The applicant requests authority to conduct level B harassment activities [i.e., censuses] on Antarctic pinnipeds in the South Shetland Islands, Antarctica. Additionally, up to 1050 Antarctic fur seals will be captured, handled and released. During these activities, up to 1934 Antarctic fur seals, 99 southern elephant seals, 7 leopard seals, 15 Weddell seals, 1 Ross seal may be inadvertently harassed, and 1 animal may be accidentally killed or injured during capture operations.

Dated: November 8, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–29471 Filed 11–15–96; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Audit Trail Requirements, Exemption; Minneapolis Grain Exchange

AGENCY: Commodity Futures Trading Commission.

ACTION: Opinion and order.

SUMMARY: Section 5a(b)(3) of the Commodity Exchange Act (''Act'') provides that the audit trail system of each contract market must meet the heightened audit trail standards that became effective on October 28, 1995. However, Section 5a(b)(5) of the Act provides that the Commodity Futures Trading Commission (''Commission'') shall, by rule or order, make an exemption from the enhanced audit trail requirements for low-volume exchanges that can meet certain standards

The Commission, pursuant to its authority under Section 5a(b)(5), has determined to grant the Minneapolis Grain Exchange an exemption from Section 5a(b)(3), subject to continuing compliance by the Minneapolis Grain Exchange with all statutory requirements for the exemption.

DATE: The Commission's order will take effect 30 legislative days or 90 calendar days, whichever is later, after submission of the order to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. To confirm the date the order will take effect, contact the Division of Trading and markets in For Further Information Contact.

FOR FURTHER INFORMATION CONTACT:

Brian Regan, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 3 Lafayette Center, 1155 21st St. K Street, N.W., Washington, DC 20581; telephone (202) 418–5490.

SUPPLEMENTARY INFORMATION: On November 12, 1996, the Commission issued the following opinion and order as authorized by Section 5a(b)(5) of the Act:

Opinion and Order Granting an Exemption From the Requirements of Section 5a(b)(3)

Upon consideration of the available record and pursuant to its statutory authority under Section 5a(b)(5) of the Commodity Exchange Act (''Act''), the Commission has determined to grant the Minneapolis Grain Exchange an exemption from the audit trail requirements of Section 5a(b)(3) of the Act, which became effective on October 28, 1995.

The Commission finds that the Minneapolis Grain Exchange has demonstrated that it satisfies the standards set forth in Section 5a(b)(5) for an exemption from Section 5a(b)(3). Specifically, the Commission finds that the Minneapolis Grain Exchange:

(1) Has a level of trading volume that is relatively small;

(2) Is in substantial compliance with the audit trail objectives of Section 5a(b)(3); and

(3) Generally has maintained a high level of compliance with the requirements in Section 5a(b) for an effective trade monitoring system.

Accordingly, the Commission HEREBY ORDERS that the Minneapolis Grain Exchange be exempted at this time from the requirements of Section 5a(b)(3). As part of this exemption, the Minneapolis Grain Exchange must continue to maintain compliance with all statutory requirements for the exemption. Under Section 5a(b)(6), this order shall become effective 30 legislative days or 90 calendar days, whichever is later, after submission of the order to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Dated: November 12, 1996.

By the Commission.

Jean A. Webb.

Secretary to the Commission.

[FR Doc. 96–29466 Filed 11–15–96; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Cargo Liability of Carrier

AGENCY: Military Traffic Management Command (MTMC), DOD.

ACTION: Notice.

SUMMARY: This is a final notice. Affected rules are MTMC Freight Traffic Rules Publication No. 1A (MFTRP No. 1A), Items 112, 113, 115, and 116, effective April 24, 1990. The new liability will be: ''For all shipments weighing less than 15,000 pounds, the carrier's liability for lost and/or damaged cargo will be limited to the lowest dollar amount of either $50,000 or the actual amount of the loss and/or damage to the article(s). Should a shipper desire to declare and establish a cargo liability for an amount greater than $50,000, the carrier agrees to provide this increased liability coverage for $____ per each $100 increase in lost and/or damaged cargo liability over the maximum liability. For all shipments weighing 15,000 pounds and over, the carrier's liability for lost and/or damaged cargo will be limited to the lowest dollar amount of either $150,000 or the actual amount of the loss and/or damage to the article(s). Should a shipper desire to declare and establish a cargo liability for an amount greater than $150,000, the carrier agrees to provide this increased liability coverage for $____ per each $100 increase in lost and/or damaged cargo liability over the maximum liability.''

DATES: This change will become effective February 1, 1997.

FOR FURTHER INFORMATION CONTACT: Military Traffic Management Command, 5611 Columbia Pike, Falls Church, VA 22041–5050. Point of contact is Mr. Julian Jolkovsky, MTOP–T–SR, (703) 681–3440, or Ms. Crystal Hunter, MTOP–QER, (703) 681–6579.

SUPPLEMENTARY INFORMATION: Based on a careful and thorough review of comments received by MTMC, the policy change that was recommended on March 14, 1996, will become effective on February 1, 1997. The original proposal is in keeping with recommendations made in the General Accounting Office (GAO) report, ''Defense Transportation: Ineffective Oversight Contributes to Freight Losses'' (GAO/NSIAD–92–96). GAO pointed out that under MTMCs current carrier liability limitations, recoveries on lost or damaged motor freight shipments average 30 cents for every dollar of actual value of the cargo and have been at or near this average for at least the previous three fiscal years (October 1992–September 1995). MTMC's own review of FY 96 claims data reveals that the Government is collecting less than 31 cents from carriers for every dollar of claims involving lost and/or damaged property. This is not a responsible use of tax dollars and serves to benefit only the carrier industry. The proposed change is expected to permit DOD to recover actual value on at least 90 percent of lost or damaged shipments.

Notices in the Federal Register (FR), March 14, 1996, and June 6, 1996, provided notice of MTMC's proposed change to motor carrier liability limitations for Freight All Kinds (FAK) shipments moving under motor carrier voluntary tenders, other than Guaranteed Traffic. Only one set of comments on this proposal was received from the carrier industry by the deadline date of August 5, 1996, from the legal representatives of the National Motor Freight Traffic Association, the Regular Common Carrier Conference, and the Transportation Loss Prevention and Security Council in a letter dated August 2, 1996. One comment alleged that MTMC is attempting to engage unilaterally in ''rate making'' practices and insisted that current released valuation policy, which is based on a per pound rate, should be maintained. Essentially, this comment misconstrues MTMC's intent. With few exceptions, rate making and rate submissions in response to MTMC movement requirements are carrier responsibilities. MTMC's intent in changing the level of carrier liability is to establish levels which will reasonably reimburse the Government for carrier-caused loss and/or damage to DOD-sponsored shipments. After careful review of information presented in the comments, MTMC's position is that to continue the use of released valuation limitations of $1.75 or $2.50 per pound is not a prudent use of tax dollars, severely restricts the Government's ability to obtain reasonable reimbursement for carrier-caused loss and/or damage to DOD sponsored shipments, and would be in direct conflict with the recommendations set forth in the June, 1992, GAO report. Furthermore, these low levels of valuation for loss and/or damage to Government property may induce carriers to offer less than a full level of safety, security, care, and handling to these shipments.

As a matter of background information, beginning in December, 1994, MTMC implemented the same change in carrier liability limits for Guaranteed Traffic (G/T) shipments. This change raised no complaints from the carrier industry and has shown positive benefits for the Government in monetary recoveries from freight claims filed against G/T carriers for shipments which have incurred loss and/or damage. It is also noted that many motor freight carriers participate in both the G/T and voluntary programs; therefore, standardizing carrier liability levels between the two programs will enhance administrative shipment planning and movement procedures.

During FY 94, DOD tendered over 1 million freight shipments to motor carriers at a transportation cost in excess of $400 million. The total value of goods moved by commercial carriers is indeterminable; however, the value represents a significant taxpayer investment in the equipment and supplies used to support the Armed Forces. On any given day, the motor carrier industry may be entrusted with providing transportation services for over 50,000 less-than-truckload and truckload shipments. The timely, damage-and loss-free movement of these supplies directly impact military readiness. Lost, partially damaged, or totally destroyed supplies and equipment provide little benefit to the military services and negatively impact readiness. Furthermore, the inability of DOD to recoup equitable monetary reimbursement from carriers because of artificially low carrier liability levels, to repair or replace damaged or lost supplies, substantially impacts budgetary and program funding. Increasing carrier liability levels will cure some of these shortfalls.

The commentator also stated that MTMC was not negotiating with the carrier industry as required by DOD regulations. MTMC's view is that regular negotiations are conducted with industry at partnering meetings and other public forums. Under the Motor Carrier Act of 1980, the level of carrier liability is negotiable between the shipper and the carrier. However, at the same time, MTMC, as single transportation manager for DOD surface freight shipments, is well within its authority to determine the level of liability that best protects DOD shipments. Also, the carrier is free to offer any rate that it feels will adequately compensate it.

MTMC accomplishes ''negotiation'' of terms and conditions of service through

the FR, because it is impractical to deal with and discuss the nature of MTMC's business and its requirements individually with more than 500 approved carriers. Also, such negotiation does not mean that MTMC will allow carriers to dictate the terms of the program. Under 49 U.S.C. 13712, formerly 49 U.S.C. 10721, motor carriers may quote a reduced rate to the government; however, it does not provide that the Government must accept the rates offered. In any event, 49 U.S.C. section 13712 no longer applies to motor carrier freight. It only applies to household goods and certain water shipments. Carriers may now offer any freight rates they want to anyone.

MTMC's procurement authority is derived from the Armed Services Procurement Act (10 U.S.C. 2301, et seq.) MTMC has the authority to make its own arrangements, and has the right to contract on its own terms on behalf of its DOD customers. Accordingly, MTMC's proposed changes to carrier liability levels has been endorsed by major DOD shippers, MTMC's customers.

Because the policy change applies only to motor shipments of general cargo, Freight All Kinds, the motor carriers have the opportunity to offer whatever rates they hold to be reasonable for the level of liability that DOD requires. MRMC recognizes that increases in carrier liability may result in somewhat higher line haul charges. However, MTMC expects that those carriers which have aggressive safety, claims prevention, employee training, and quality control programs will have little or no difficulty in accommodating these changes and will continue to provide quality service at reasonable rates to the DOD. In addition, MTMC expects any increase in line haul charges to be offset by the beneficial aspects of corresponding increases in recoveries from carriers for lost and damaged freight and, as service improves, a decrease in administrative costs to process claims. Shifting a greater level of monetary responsibility to carriers for carrier-caused loss and damage removes the burden for these occurrences from DOD and the taxpayer and places them on the carrier. Maintaining artificially low levels of liability for loss and damage acts as a distinctive to promoting and maintaining a safe, damage- and loss-free Defense Transportation System.

An effective date for these changes of February 1, 1997, will afford carriers an opportunity to adjust their rates, if necessary, to accommodate any forecasted increases or decreases in their operating-costs based on their historical incidences of loss and/or damage to shipments.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–29427 Filed 11–15–96; 8:45 am]

BILLING CODE 3710–08–M

Movement of Foreign Military Sales Material Under Department of Defense Standard Tender of Freight Services MT Form 364–R–Policy Change (Required Use of Standard Tender of Freight Services MT Form 364–R for the Movement of Foreign Military Sales Material)

AGENCY: Military Traffic Management Command (MTMC), Department of the Army.

ACTION: Notice.

SUMMARY: The Military Traffic Management Command (MTMC) is proposing to change its rate verification procedure by requiring that carriers file tenders of service to participate in Foreign Military Sales (FMS) traffic, as follows:

Carriers who want to participate in FMS movements will submit a voluntary Standard Tender(s) of Freight Services MT Form 364–R numbered in the 300000 series (300001 through 349999) applicable to FMS material only. Tenders will be consecutively numbered and prepared according to instructions contained in MTMC Standard Tender Instruction Publication No. 364A. Rules and accessorial services governing movement will be MTMC Freight Traffic Rules Publication (MFTRP) No. 1A for motor transportation and MFTRP No. 10 for rail transportation. The applicable publication must be shown as a governing publication in Section B of the tender for the tender to be considered for routing.

DATES: The policy change is effective no earlier than 60 days after publication of this notice.

ADDRESSES: Interested parties are requested to submit comments on this proposal. The comments should be addressed to Headquarters, Military Traffic Management Command, Room 117, 5611 Columbia Pike, Falls Church, VA 22041–5050, ATTN: MTTM–D (Barbara McGinnis).

FOR FURTHER INFORMATION CONTACT: Ms. Barbara McGinnis, MTTM–D, (703) 681–6103, or e-mail MCGINNIB@BAILEYS-EMH5.ARMY.MIL.

SUPPLEMENTARY INFORMATION: MTMC's procedural change supports the Office of the Secretary of Defense's initiative to automate the Government Bill of Lading payment process for the Department of Defense. This notice supersedes the April 3, 1996, Federal Register notice pertaining to ''Tender Filing Instructions for the Movement of Foreign Military Sales (FMS) Material,'' 61 FR 14760.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–29428 Filed 11–13–96; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy; Energy Conservation Program for Consumer Products; Representative Average Unit Costs of Energy

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice.

SUMMARY: In this notice, the Department of Energy (DOE or Department) is forecasting the representative average unit costs of five residential energy sources for the year 1997. The five sources are electricity, natural gas, No. 2 heating oil, propane, and kerosene. The representative unit costs of these energy sources are used in the Energy Conservation Program for Consumer Products established by the Energy Policy and Conservation Act, Pub. L. No. 94–163, 89 Stat. 871, as amended, (EPCA).

EFFECTIVE DATE: The representative average unit costs of energy contained in this notice will become effective December 18, 1996 and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT:

Dr. Barry P. Berlin, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–43, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9127

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC–72, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 586–9507

SUPPLEMENTARY INFORMATION: Section 323 of the EPCA (Act)[1] requires that DOE prescribe test procedures for the determination of the estimated annual

[1] References to the ''Act'' refer to the Energy Policy and Conservation Act, as amended. 42 U.S.C. §§ 6291—6309.

operating costs or other measures of energy consumption for certain consumer products specified in the Act. These test procedures are found in 10 CFR Part 430, Subpart B.

Section 323(b) of the Act requires that the estimated annual operating costs of a covered product be computed from measurements of energy use in a representative average-use cycle and from representative average unit costs of energy needed to operate such product during such cycle. The section further requires DOE to provide information regarding the representative average unit costs of energy for use wherever such costs are needed to perform calculations in accordance with the test procedures. Most notably, these costs are used under the Federal Trade Commission appliance labeling program established by Section 324 of the Act and in connection with advertisements of appliance energy use and energy costs which are covered by Section 323(c) of the Act.

The Department last published representative average unit costs of residential energy for use in the Conservation Program for Consumer Products on January 19, 1996. (61 FR 1366). Effective December 18, 1996, the cost figures published on January 19, 1996, will be superseded by the cost figures set forth in this notice.

The Department's Energy Information Administration (EIA) has developed the 1997 representative average unit after-tax costs of electricity, natural gas, No. 2 heating oil, and propane and kerosene prices found in this notice. The cost projections for heating oil, electricity and natural gas are found in the fourth quarter, 1996, EIA *Short-Term Energy Outlook,* DOE/EIA–0226 (96/4Q) and reflect the mid-price scenario. Projections for residential propane and kerosene prices are derived from their relative prices to that of heating oil, based on 1994 averages for these three fuels. The sources for these price data are the *Petroleum Marketing Annual 1994* (DOE/EIA–0487(94)) and the September 1996 *Monthly Energy Review (DOE/EIA–0035(96/09).* The *Short-Term Energy Outlook,* the *Petroleum Marketing Annual 1994,* and the *Monthly Energy Review* are available at the National Energy Information Center, Forrestal Building, Room 1F–048, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8800.

The 1997 representative average unit costs stated in Table 1 are provided pursuant to Section 323(b)(4) of the Act and will become effective December 18, 1996. They will remain in effect until further notice.

Issued in Washington, DC, on November 12, 1996.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FIVE RESIDENTIAL ENERGY SOURCES (1997)

Type of energy	Per million Btu [1]	In commonly used terms	As required by test procedure
Electricity	$24.35	8.31¢/kWh [2, 3]	.0831/kWh
Natural gas	6.12	61.2¢/therm [4] or $6.29/MCF [5, 6]	.00000612/Btu
No. 2 Heating Oil	7.14	$.99/gallon [7]	.00000714/Btu
Propane	10.73	$.98/gallon [8]	.00001073/Btu
Kerosene	8.59	$1.16/gallon [9]	.00000859/Btu

[1] Btu stands for British thermal units.
[2] kWh stands for kilowatt hour.
[3] 1 kWh =3,412 Btu.
[4] 1 therm =100,000 Btu. Natural gas prices include taxes.
[5] MCF stands for 1,000 cubic feet.
[6] For the purposes of this table, one cubic foot of natural gas has an energy equivalence of 1,028 Btu.
[7] For the purposes of this table, one gallon of No. 2 heating oil has an energy equivalence of 138,690 Btu.
[8] For the purposes of this table, one gallon of liquid propane has an energy equivalence of 91,333 Btu.
[9] For the purposes of this table, one gallon of kerosene has an energy equivalence of 135,000 Btu.

[FR Doc. 96–29432 Filed 11–15–96; 8:45 am]
BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. EG97–11–000, et al.]

PMDC Netherlands B.V., et al.; Electric Rate and Corporate Regulation Filings

November 8, 1996.

Take notice that the following filings have been made with the Commission:

1. PMDC Netherlands B.V.

[Docket No. EG97–11–000]

On November 4, 1996, PMDC Netherlands B.V. (the Applicant) whose address is 4e Etage, 3012 CA Rotterdam, The Netherlands, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

The Applicant states that it will be engaged directly and exclusively in the business of owning four hydroelectric generating facilities in Spain, and selling electric energy at wholesale. The Applicant requests a determination that the Applicant is an exempt wholesale generator under Section 32(a)(1) of the Public Utility Holding Company Act of 1935.

Comment date: November 29, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Hidro Iberica B.V.

[Docket No. EG97–12–000]

On November 4, 1996, Hidro Iberica B.V. (the ''Applicant'') whose address is 4e Etage, 3012 CA Rotterdam, The Netherlands, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

The Applicant states that it will be engaged directly and exclusively in the business of owning four hydroelectric generating facilities located in Spain, and selling electric energy at wholesale. The Applicant requests a determination that the Applicant is an exempt wholesale generator under Section 32(a)(1) of the Public Utility Holding Company Act of 1935.

Comment date: November 29, 1996, in accordance with Standard Paragraph E

at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. North American Energy Services Company

[Docket No. EG97–14–000]

On November 5, 1996, North American Energy Services Company, a Washington corporation, 999 Lake Drive, Suite 310, Issaquah, Washington 98027 (the ''Applicant''), filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator (''EWG'') status pursuant to Part 365 of the Commission's Regulations.

The Applicant will be engaged in managing daily operations and maintenance of eligible facilities to be constructed in Colombia: The 130 MW Termovalle power plant located at Valle del Cauca, Colombia, consisting of a Westinghouse 501F combustion turbine generator and associated equipment and real estate. The turbine will be natural gas or fuel oil No. 2 fired.

Comment date: November 29, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. New England Power Company

[Docket No. ER97–300–000]

Take notice that on October 31, 1996, New England Power Company (NEP), tendered for filing Service Agreements under its FERC Electric Tariff, Original Volume No. 9 for Network Integration Transmission Service to Green Mountain Power Corporation and Central Vermont Public Service. NEP also tendered, as a supplement to the CVPS Service Agreement, a Support Agreement for the G–33 Circuit.

Comment date: November 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Atlantic City Electric Company

[Docket No. ER96–1361–003]

Take notice that on October 10, 1996, Atlantic City Electric Company submitted a filing in compliance with the Commission's order of September 26, 1996 in the captioned docket.

Comment date: November 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Northeast Utilities Service Company

[Docket No. ER96–2332–001]

Take notice that on October 18, 1996, Northeast Utilities Service Company tendered for filing its refund report in the above-referenced docket.

Comment date: November 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Plum Street Marketing Energy, Inc. Niagara Mohawk Power Corporation

[Docket No. ER96–2525–001; Docket No. ER96–2585–001]

Take notice that on October 10, 1996, Plum Street Energy Marketing, Inc., and Niagara Mohawk Power Corporation submitted their filing in compliance with the Commission's September 25, 1996 order in the above-captioned dockets.

Comment date: November 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. The Montana Power Company

[Docket No. ER97–291–000]

Take notice that on October 30, 1996, The Montana Power Company (Montana), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 Firm and Non-Firm Point-to-Point Transmission Service Agreements with Missoula Electric Cooperative, Inc. (MEC) and Vigilante Electric Cooperative, Inc. (VEC) under FERC Electric Tariff, Original Volume No. 2 (Open Access Transmission Tariff).

A copy of the filing was served upon MEC and VEC.

Comment date: November 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Southwestern Public Service Company

[Docket No. ER97–292–000]

Take notice that on October 31, 1996, Southwestern Public Service Company (Southwestern), submitted an executed service agreement under its open access transmission tariff with E Prime. The service agreement is for umbrella firm transmission service.

Comment date: November 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. PacifiCorp

[Docket No. ER97–293–000]

Take notice that on October 31, 1996, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, Amendment No. 2 to Long-Term Power Sales Agreement (91–SAO–30005) between PacifiCorp and Western and Amendment No. 1 to Long-Term Power Sales Agreement (91–SAO–30006) between PacifiCorp and Western.

Copies of this filing were supplied to Western, the Public Utility Commission of Oregon, Public Service Commission of Utah, and the Washington Utilities and Transportation Commission.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: November 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Consumers Power Company

[Docket No. ER97–294–000]

Take notice that on October 31, 1996, Consumers Power Company (Consumers), filed new Power Sales Agreements with the Cities of Bay City, Eaton Rapids, Hart, Portland and St. Louis, the Village of Chelsea, Southeastern Rural Electric Cooperative, Inc. and Wolverine Power Supply Cooperative, Inc.

Consumers states the Power Sale Agreements will take effect on January 1, 1997, extend for a five-year term and provide for the sale of both firm and interruptible wholesale power on an unbundled basis. The Power Sales Agreements will replace earlier wholesale power agreements which expire on December 31, 1996.

Copies of the filing were served upon the parties to the Power Sales Agreements and the Michigan Public Service Commission.

Comment date: November 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Soyland Power Cooperative, Inc.

[Docket No. ER97–295–000]

Take notice that on October 31, 1996, Soyland Power Cooperative, Inc. (Soyland), tendered for filing with the Federal Energy Regulatory Commission (FERC) proposed changes to its initial rate filing dated September 12, 1996, in Docket No. ER96–2974–000. The proposed effective date of the changes included in the filing is January 1, 1997.

The October 31, 1996, filing represents a decrease in the rates Soyland charges for sales to its 21 Member rural electric distribution cooperatives under their long-term, all-requirements Wholesale Power Contracts. The rate decrease arises as a result of the adoption of a 1997 budget that is based on a new capital structure and changed costs arising out of the September 13, 1996, buy-out, by Soyland, of its indebtedness to the Rural Utilities Service, and the restructuring of its business relationships, all as described more fully in the transmittal letter accompanying Soyland's initial rate filing with respect to the Member

Wholesale Power Contracts, filed in Docket No. ER96–2974–000 on September 12, 1996.

Copies of the filing were served upon Adams Electrical Cooperative, Clay Electric Co-operative, Inc., Clinton County Electric Cooperative, Inc., Coles-Moultrie Electric Cooperative, Corn Belt Electric Cooperative Inc., Eastern Illini Electric Cooperative, Edgar Electric Cooperative Association, Farmers Mutual Electric Company, Illinois Rural Electric Co., Illinois Valley Electric Cooperative, Inc., M.J.M. Electric Cooperative, Inc., McDonough Power Cooperative, Menard Electric Cooperative, Monroe County Electric Co-operative, Inc., Rural Electric Convenience Cooperative Co., Shelby Electric Cooperative, Southwestern Electric Cooperative, Inc., Spoon River Electric Co-operative, Inc., Tri-County Electric Cooperative, Inc., Wayne-White Counties Electric Cooperative, Western Illinois Electrical Coop. (the 21 member cooperatives) and the Illinois Commerce Commission. In addition, copies were served on all parties which intervened in Docket No. ER96–2974–000, the docket assigned by the Commission to Soyland's September 12, 1996, initial rate filing with respect to the Member Wholesale Power Contracts.

Comment date: November 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Florida Power & Light Company

[Docket No. ER97–296–000]

Take notice that on October 31, 1996, Florida Power & Light Company (FPL), tendered for filing a proposed notice of cancellation of an umbrella service agreement with Gainesville Regional Utilities for Firm Short-Term transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed cancellation be permitted to become effective on July 9, 1996.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: November 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Florida Power & Light Company

[Docket No. ER97–298–000]

Take notice that on October 31, 1996, Florida Power & Light Company (FPL), tendered for filing a proposed notice of cancellation of an umbrella service agreement with Delhi Energy Services, Inc. for Firm Short-Term transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed cancellation be permitted to become effective on July 9, 1996.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: November 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. New England Power Company

[Docket No. ER97–299–000]

Take notice that on October 31, 1996, New England Power Company (NEP), filed a Service Agreement with Aquila Power Corporation for non-firm, point-to-point transmission service under NEP's open access transmission tariff, FERC Electric Tariff, Original Volume No. 9.

Comment date: November 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Western Resources, Inc.

[Docket No. OA96–100–001]

Take notice that on October 31, 1996, Western Resources, Inc. tendered for filing its compliance filing pursuant to the Commission's October 16, 1996, Order Accepting and Rejecting Informational Filings and Requests For Waiver Filed Under Order No. 888.

Comment date: November 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Edison Sault Electric Company

[Docket No. OA97–23–000]

Take notice that on November 1, 1996, Edison Sault Electric Company submitted for filing pursuant to Section 35.28(d) of the Commission's Regulations as promulgated in Order No. 888, an Application For Waiver Of The Requirements Of Order No. 889.

Comment date: November 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Allegheny Power Service Corporation on behalf of Monongahela Power Company, the Potomac Edison Company, West Penn Power Company (Allegheny Power)

[Docket No. OA96–86–001]

Take notice that on October 31, 1996, Allegheny Power Service Corporation on behalf of Monongahela Power Company. The Potomac Edison Company and West Penn Power Company (Allegheny Power) filed a Supplement No. 1 to its informational filing to meet Commission requirements. This Supplement No. 1 to Allegheny Power's Informational Filing gives notice to wholesale requirements customers of the applicable transmission service rate if they choose to purchase unbundled power and transmission services upon expiration of existing arrangements.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all affected parties.

Comment date: November 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Pennsylvania Power & Light Company

[Docket No. OA96–221–001]

Take notice that on October 31, 1996, Pennsylvania Power & Light Company (PP&L) tendered for filing a revised informational filing in compliance with the Commission's Order No. 888, Docket No. RM85–8–000, 61 Fed. 61 Fed. Reg. 21,540 (May 10, 1996), FERC Stats. and Regs. ¶31,036 (1996), *reh'g pending,* and the Commission's ''Order Accepting and Rejecting Informational Filings and Requests for Waiver Filed Under Order No. 888 By Public Utilities'' issued on October 16, 1996, 77 FERC ¶61,025 (1996). In its revised informational filing, PP&L sets forth the unbundled charges for power, transmission service, ancillary services, and losses applicable under its existing requirements wholesale electric service contracts providing for bundled fixed rates.

Comment date: November 21, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–29412 Filed 11–15–96; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 2233–027]

Portland General Electric Company, Smurfit Newsprint Corporation, Simpson Paper Company; Notice of Availability of Environmental Assessment

November 12, 1996.

An environmental assessment (EA) is available for public review. The EA is an application for an amendment of license for the Willamette Falls Project. The amendment of license application concerns the closure of six authorized hydropower units of the project's Simpson development by sealing the units with concrete plugs and steel plates. The EA finds that approval of the application would not constitute a major federal action significantly affecting the quality of the human environment. The Willamette Falls Project is located on the Willamette River in West Linn and Oregon City, Oregon.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA are available for review at the Commission's Reference and Information Center, Room 2–A, 888 First Street, NE, Washington, D.C. 20426. Copies can also be obtained by calling the project manager, Jon Cofrancesco at (202) 219–0079.

Lois D. Cashell,

Secretary.

[FR Doc. 96–29411 Filed 11–15–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5652–9]

Gulf of Mexico Program Citizens Advisory Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Meeting of the Citizens Advisory Committee of the Gulf of Mexico Program.

SUMMARY: The Gulf of Mexico Program's Citizens Advisory Committee will hold a meeting at the River House Conference Center, Stennis Space Center, Mississippi.

FOR FURTHER INFORMATION CONTACT:

James D. Giattina, Director, Gulf of Mexico Program Office, Building 1103, Room 202, John C. Stennis Space Center, Stennis Space Center, MS 39529–6000, at (601) 688–3726.

SUPPLEMENTARY INFORMATION: A workshop of the Citizens Advisory Committee of the Gulf of Mexico Program will be held at the River House Conference Center, Stennis Space Center, MS. The committee will meet from 1:00 p.m. to 5:00 p.m. on December 12 and from 8:30 a.m. to 12:00 p.m. on December 13. Agenda items will include: Follow-up to Management Committee Meeting; Organizational Changes; New Members Introduction and Brief; Definition of Role of the CAC; Assignments/ Involvement of the CAC with Focus Groups; Discussion of FACA; and Break-out Groups for Opportunities to Meet by Issue and State. The meeting is open to the public.

Dated: November 12, 1996.

James D. Giattina,

Director, Gulf of Mexico Program.

[FR Doc. 96–29457 Filed 11–15–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5652–8]

Science Advisory Board; Notification of Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Integrated Human Exposure Committee (IHEC) of the Science Advisory Board (SAB) will meet on December 19–20, 1996 at the Environmental Protection Agency's Waterside Mall Complex, 401 M Street, SW, Washington, DC 20460 in Room M2103. For convenient access, members of the public should use the EPA entrance next to the Safeway store. The meeting will start at 9:00 a.m. and end no later that 5:00 p.m. (Eastern Standard Time) each day. All meetings are open to the public. Due to limited space, seating at meetings will be on a first-come basis.

Purpose of the Meeting—The main purpose of the meeting is to discuss and review the EPA Office of Research and Development's (ORD) draft Exposure Factors Handbook, which is intended to revise the extant (published in March 1990) version of the Handbook. The Handbook is intended to encourage consistency in exposure assessments, while allowing risk assessors the flexibility to tailor assessment approaches to specific situations. This Handbook provides a summary of the available data on consumption of drinking water; consumption of fruits, vegetables, beef, dairy products, and fish, soil ingestion; inhalation rates; skin surface area; lifetime; activity patterns; and body weight. Since publication of the 1990 document, new data on exposure factors have become available, and revision was necessary to update the Handbook.

The Committee is being asked to review the revised Handbook, addressing: a) its consistency with EPA's published Exposure Guidelines; b) usefulness of its data presentation to exposure assessors; c) the way in which supporting studies have been grouped vis-a-vis the exposure factors being evaluated; and d) data interpretation and characterization of uncertainty.

For Further Information—Single copies of the review document can be obtained by contacting the ORD Center for Environmental Research Information (CERI) at (513) 569–7562. The EPA document numbers are: EPA/600/P–95/002Ba (for volume I); EPA/600/P–95/002Bb (for volume II); and EPA/600/P–95/002Bc (for volume III). PLEASE NOTE THAT THIS DOCUMENT IS NOT AVAILABLE FROM THE SAB. Members of the public desiring additional technical information about the draft Handbook should contact Ms. Jacqueline Moya (8623), US EPA, 401 M Street, SW, Washington, DC 20460, telephone (202) 260–2385, or by sending a request via Internet to moya.jacqueline@epamail.epa.gov.

Members of the public desiring additional information about the meeting, including a draft agenda, should contact Ms. Dorothy Clark, Staff Secretary, Science Advisory Board (1400), US EPA, 401 M Street, SW, Washington DC 20460, telephone (202) 260–8414, fax (202) 260–7118, or Internet at: clark.dorothy@epamail.epa.gov. Anyone wishing to make an oral presentation at the meeting must contact Mr. Samuel Rondberg, Designated Federal Official for the IHEC, in *writing* at the above address no later than 4:00 p.m., December 10, 1996 via fax (202) 260–7118 or via Internet at: rondberg.sam@epamail.epa.gov. The request should identify the name of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Mr. Rondberg no later than the time of the presentation for distribution to the Committee and the interested public. Mr. Rondberg may be contacted by telephone at (202) 260–2559.

Dated: November 7, 1996.
Donald G. Barnes,
Staff Director, Science Advisory Board.
[FR Doc. 96–29453 Filed 11–15–96; 8:45 am]
BILLING CODE 6560–50–P

[PF–671; FRL–5572–7]

Pesticide Tolerance Petition: Notice of Filing

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: This notice is a summary of a pesticide petition proposing the establishment of a regulation for residues of glufosinate-ammonium in or on corn and soybeans. This summary was prepared by the petitioner.

DATES: Comments, identified by the docket number [PF–671], must be received on or before December 18, 1996.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. In person, bring comments to: Rm. 1132 CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF–671]. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted as comments concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Product Manager (PM) 23, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)–305–6224; e-mail: miller.joanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition (PP) 5F4578 pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, as amended, 21 U.S.C. Section 346a(d), by the Food Quality Protection Act of 1996 (Pub. L. 104–170, 110 Stat. 1489) from AgrEvo USA Company (AgrEvo), Little Falls Centre One, 2711 Centerville Rd., Wilmington, DE 19808 proposing to amend 40 CFR 180.473 by establishing tolerances for residues of the herbicide, glufosinate-ammonium: butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-, monoammonium salt and its metabolites: 2-acetamido-4-methylphosphinico-butanoic acid and 3-methylphosphinico-propionic acid expressed as glufosinate free acid equivalents. The new tolerances would be for residues of the herbicide in or on the following raw agricultural commodities: field corn grain, at 0.2 parts per million (ppm); field corn forage, at 4.0 ppm, field corn fodder, at 6.0 ppm, soybeans, at 2.0 ppm, soybean hulls, at 5.0 ppm, aspirated grain fractions, at 25.0 ppm, eggs, at 0.05 ppm, poultry, meat at 0.05 ppm, poultry, fat at 0.05 ppm, and poultry, mbyp (meat byproducts) at 0.10 ppm. The proposed analytical method for determining residues is gas chromatography.

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, AgrEvo has submitted the following summary of information, data and arguments in support of its pesticide petition. This summary was proposed by AgrEvo and EPA has not yet fully evaluated the merits of the petition. The conclusions and arguments presented are those of the petitioner and not of the EPA although the EPA has edited the summary for clarification as necessary. Glufosinate-ammonium is a non-selective herbicide which will be used for post-emergence weed control in corn and soybeans which have been genetically modified to be resistant to the herbicide.

I. AgrEvo Petition Summary:

A. Plant Metabolism and Analytical Method

1. Plant Metabolism: The metabolism of glufosinate-ammonium in plants is adequately understood for the purposes of these tolerances. The crop residue profile following selective use of glufosinate-ammonium on transgenic crops is different than that found in conventional crops. The only crop residue found after non-selective use is the metabolite 3-methylphosphinico-propionic acid, which is found in only trace amounts. With the exception of corn grain, the principal residue identified in the metabolism studies after selective use of glufosinate-ammonium was 2-acetamido-4-methylphosphinico-butanoic acid, with lesser amounts of glufosinate and 3-methylphosphinico-propionic acid. In corn grain, which exhibited much lower total radiolabelled residues than the other commodities, the principal residue identified was 3-methylphosphinico-propionic acid, with lesser amounts of 2-acetamido-4-methylphosphinico-butanoic acid.

2. Analytical Method: There is a practical analytical method utilizing gas chromatography for detecting and measuring levels of glufosinate-ammonium and its metabolites in or on food with a general limit of quantification of 0.05 ppm that allows monitoring of food with residues at or above the levels proposed in these tolerances. This method has been validated by an independent laboratory and the petitioner has been advised that the EPA concluded its own successful method try out.

B. Magnitude of the Residue

1. Magnitude of the Residue in Plants: Field residue trials with glufosinate-ammonium resistant corn and soybean have been conducted in 1993 and 1994 at several different use rates and timing intervals to represent the use patterns which would most likely result in the highest residue. In these trials, the primary residue in all samples was 2-acetamido-4-methylphosphinico-butanoic acid, which was found at levels at least 2–7 times that of glufosinate or 3-methylphosphinico-propionic acid. In field corn grain, only 15 out of 301 samples analyzed exhibited residues $\geq$ 0.05 ppm (the limit of quantification). The tolerance value has been proposed at 0.2 ppm. In soybean seed, the total mean glufosinate-ammonium derived residues range from 0.32 ppm to 1.89 ppm (mean = 0.92 ppm) and the tolerance has been proposed at 2 ppm. For both corn and

soybean, the tolerances levels have been proposed assuming the following: (1) a maximum of two applications of glufosinate-ammonium to each crop per season, (2) a seasonal maximum rate of 0.8 pound of active ingredient per acre for each crop, (3) the last application made to corn no later than the 24 inch stage of growth and (4) the final soybean application made no later than early bloom.

2. Magnitude of the Residue in Processed Commodities:Studies have been conducted to determine the level of glufosinate derived residues found in or on the processed commodities from glufosinate resistant corn and soybean grain. The studies utilized treatments at significantly exaggerated rates to provide the necessary test sensitivity. No concentration of glufosinate derived residue was found in field corn processed commodities which are relevant food or feed items, i.e., flour, starch, grits, meal or oil. No processed food tolerance is indicated for the use of glufosinate-ammonium on glufosinate-ammonium resistant corn.

In the soybean processing studies, no residues of parent or metabolites were found in the crude or refined soybean oil. Measurable levels of residue were found in the soybean hulls and in the meal. Only the soybean hulls are to be considered a relevant animal feed item and a tolerance of 5 ppm for soybean hulls has been proposed.

3. Magnitude of the Residue in Animals: Ruminant and poultry feeding studies were conducted to determine the magnitude of glufosinate-derived residues in the tissues and milk of cows and the tissues and eggs of chicken hens which were dosed for 28 consecutive days with a mixture of parent (glufosinate-ammonium) and metabolite (2-acetamido-4-methylphosphinico-butanoic acid) in a ratio which represents the terminal residue in animal feed. No residues were detected in meat, milk or eggs at the dose calculated to represent the highest residue legally allowed in livestock feed.

As a consequence of the ruminant and poultry feeding studies, no secondary tolerances in animal commodities above the limit of quantification are necessitated as a result of the proposed use of glufosinate-ammonium on transgenic corn and soybean.

C. Toxicological Profile of Glufosinate-Ammonium

1. Acute Toxicity: The acute oral LD50 values for glufosinate-ammonium technical ranged from 1510 to 2000 mg/kg in rats and from 200 to 464 mg/kg in mice and dogs. The acute dermal LD50 was 2000 mg/kg in rabbits and was 4000 mg/kg in rats. The 4–hour rat inhalation LC50 was 1.26 mg/L in males and 2.6 mg/L in females. Glufosinate-ammonium was not irritating to rabbit skin but was slightly irritating to the eyes. Glufosinate-ammonium did not cause skin sensitization in guinea pigs. Glufosinate-ammonium should be classified as Tox Category II for oral toxicity, Tox Category III for inhalation and dermal toxicity and Tox Category IV for skin irritation and eye irritation.

2. Genotoxicity: No evidence of genotoxicity was noted in an extensive battery of in vitro and in vivo studies. The petitioner has been advised by the EPA that negative studies determined acceptable included Salmonella, E. coli and mouse lymphoma gene mutation assays, a mouse micronucleus assay, and an in vitro UDS assay.

3. Reproductive And Developmental Toxicity: Three developmental toxicity studies were conducted with rats, at dose levels ranging from 0.5 to 250 mg/kg/day. The no observable effect levels (NOELs) for maternal and developmental effects were determined to be 10 mg/kg/day for maternal toxicity and 50 mg/kg/day for developmental toxicity, based on the findings of hyperactivity and vaginal bleeding in dams at 50 mg/kg/day and increased incidence of arrested renal and ureter development in fetuses at 250 mg/kg/day.

A developmental toxicity study was conducted in rabbits at dose levels of 0, 2, 6.3 and 20 mg/kg/day. The maternal NOEL for this study was determined to be 6.3 mg/kg/day, based on increases in abortion and premature delivery, and decreases in food consumption and weight gain at 20 mg/kg/day. No evidence of developmental toxicity was noted at any dose level; thus the developmental NOEL was determined to be 20 mg/kg/day.

A 2-generation rat reproduction study was conducted at dietary concentrations of 0, 40, 120 and 360 ppm. The parental NOEL was determined to be 40 ppm (4 mg/kg/day) based on increased kidney weights at 120 ppm. The NOEL for reproductive effects was determined to be 120 ppm (12 mg/kg/day) based on reduced numbers of pups at 360 ppm.

4. Subchronic Toxicity: A 90–day feeding study was conducted in Fisher 344 rats at dietary concentrations of 0, 8, 64, 500 and 4000 ppm. Although slight evidence of toxicity was observed, there were no treatment-related histopathological findings at any dose level. The NOEL for this study was determined to be 8 ppm, based on increased kidney weights at 64 ppm.

A 90–day feeding study was conducted in NMRI mice at dietary concentrations of 0, 80, 320 and 1280 ppm. There were no treatment-related pathological findings at any dose level but increases in absolute and relative liver weights, serum AST, and serum potassium levels were noted at 320 and/or 1280 ppm. Based on these findings, the NOEL for this study was determined to be 80 ppm (16.6 mg/kg/day).

A 90–day feeding study was conducted in beagle dogs at dietary concentrations of 0, 4, 8, 16, 64 and 256 ppm. There were no treatment-related histopathological findings at any dose level. However, because of reduced weight gain and decreased thyroid weights at 64 and/or 256 ppm, the NOEL was determined to be 16 ppm (0.53 mg/kg/day).

5. Chronic Toxicity/Oncogenicity: A 12–month feeding study was conducted in beagle dogs at dose levels of 0, 2, 5 and 8.5 mg/kg/day. The NOEL was 5 mg/kg/day based on clinical signs of toxicity, reduced weight gain and mortality at 8.5 mg/kg/day.

A 2–year mouse oncogenicity study was conducted in NMRI mice at dietary concentrations of 0, 20, 80 and 160 (males) or 320 (females) ppm. The NOEL was determined to be 80 ppm (10.8 and 16.2 mg/kg/day for males and females, respectively) based on increased blood glucose, decreased glutathione levels and increased mortality in the high-dose males and/or females. No evidence of oncogenicity was noted at any dose level.

A combined chronic toxicity/oncogenicity study was conducted in Wistar rats for up to 130 weeks at dietary concentrations of 0, 40, 140 and 500 ppm. A dose-related increase in mortality was noted in females at 140 and 500 ppm, while increased absolute and relative kidney weights were noted in 140 and 500 ppm males. Thus, the NOEL for this study was determined to be 40 ppm (2.1 mg/kg/day). No treatment-related oncogenic response was noted. However, the high-dose level in this study did not satisfy the EPA criteria for a Maximum Tolerated Dose and thus a data gap currently exists for a rat carcinogenicity study. All glufosinate-ammonium tolerances previously established by the EPA are time-limited because of this gap. A new rat oncogenicity study is currently being conducted and is due to the EPA by July 1, 1998.

6. Animal Metabolism: Numerous studies have been conducted to evaluate the absorption, distribution, metabolism and/or excretion of glufosinate-ammonium in rats. These studies indicate that glufosinate-ammonium is

poorly absorbed (5–10%) after oral administration and is rapidly eliminated, primarily as parent compound. Small amounts of the metabolites 3-methylphosphinico-propionic acid and 2-acetamido-4-methylphosphinico-butanoic acid were found in the excreta, although the latter is believed to be a result of a reversible acetylation and deacetylation process by intestinal bacteria.

7. Metabolite Toxicology: The primary residue resulting from the use of glufosinate-ammonium in genetically transformed corn and soybean consists of the metabolites 2-acetamido-4-methylphosphinico-butanoic acid and 3-methylphosphinico-propionic acid. A considerable number of toxicity studies have been conducted with these metabolites, including developmental toxicity studies in rats and rabbits with both metabolites and a 2-generation rat reproduction study with 2-acetamido-4-methylphosphinico-butanoic acid. Neither metabolite presents an acute toxicity hazard and both were determined to be non-genotoxic in an extensive battery of in vitro and in vivo genotoxicity studies. Neither metabolite demonstrated significant developmental toxicity to either rats or rabbits. Subchronic studies in rats, mice and dogs were conducted with both metabolites with no clear evidence for any specific target organ toxicity and with NOEL's or No Observed Adverse Effects Levels (NOAEL's) substantially higher than those seen with glufosinate-ammonium. Thus, these studies indicate that both metabolites are less toxic than the parent compound and do not pose any reproductive or developmental concerns.

8. Endocrine Effects: No special studies investigating potential estrogenic or endocrine effects of glufosinate-ammonium have been conducted. However, the standard battery of required studies has been completed. These studies include an evaluation of the potential effects on reproduction and development, and an evaluation of the pathology of the endocrine organs following repeated or long-term exposure. These studies are generally considered to be sufficient to detect any endocrine effects but no such effects were noted in any of the studies with either glufosinate-ammonium or its metabolites.

D. Aggregate Exposure

Glufosinate-ammonium is a non-selective, post-emergent herbicide with both food and non-food uses. As such, aggregate non-occupational exposure would include exposures resulting from consumption of potential residues in food and water, as well as from residue exposure resulting from non-crop use around trees, shrubs, lawns, walks, driveways, etc. Thus, the possible human exposure from food, drinking water and residential uses has been assessed below.

1. Dietary (Food) Exposure: For purposes of assessing the potential dietary exposure from food under the proposed tolerances, the petitioner has been advised that the EPA has estimated exposure based on the Theoretical Maximum Residue Contribution (TMRC) derived from the previously established tolerances for glufosinate-ammonium on apples, grapes, tree nuts, bananas, milk and the fat, meat and meat-by-products of cattle, goats, hogs, horses and sheep as well as the proposed tolerances for glufosinate-ammonium on field corn grain, at 0.2 ppm, field corn forage, at 4.0 ppm, field corn fodder, at 6.0 ppm, soybeans, at 2.0 ppm, soybean hulls, at 5.0 ppm, aspirated grain fractions, at 25.0 ppm, eggs, at 0.05 ppm, poultry, meat at 0.05 ppm, poultry, fat at 0.05 ppm, and poultry, mbyp (meat byproducts) at 0.10 ppm. The TMRC is obtained by using a model which multiplies the tolerance level residue for each commodity by consumption data which estimate the amount of each commodity and products derived from the commodity that are eaten by the U.S. population and various population subgroups. In conducting this exposure assessment, the EPA has made very conservative assumptions--100% of all commodities will contain glufosinate-ammonium residues and those residues would be at the level of the tolerance--which result in a large overestimate of human exposure. Thus, in making a safety determination for these tolerances, the Agency took into account this very conservative exposure assessment.

2. Dietary (Drinking Water) Exposure: There is no Maximum Contaminant Level established for residues of glufosinate-ammonium. The petitioner has been advised by the EPA that all environmental fate data requirements for glufosinate-ammonium have been satisfied. The potential for glufosinate-ammonium to leach into groundwater has been assessed in a total of nine terrestrial field dissipation studies conducted in several states and in varying soil types. The degradation of glufosinate-ammonium in these studies was rapid, with half-lives ranging from a low of 6 to a high of 23 days. Despite the relatively high water solubility of glufosinate-ammonium, this compound did not appear to leach under typical test conditions. This is a result of the combination of its rapid degradation and its tendency to bind to certain soil elements such as clay or organic matter. Based on these studies and the expected conditions of use, the potential for finding significant glufosinate-ammonium residues in water is minimal and the contribution of any such residues to the total dietary intake of glufosinate-ammonium will be negligible.

3. Non-Dietary Exposure: As a non-selective, post-emergent herbicide, homeowner use of glufosinate-ammonium will consist primarily of spot spraying of weeds around trees, shrubs, walks, driveways, flower beds, etc. There will be minimal opportunity for post-application exposure since contact with the treated weeds will rarely occur. Thus, any exposures to glufosinate-ammonium resulting from homeowner use will result from dermal exposure during the application and will be limited to adults, not to infants or children. These exposures are not expected to pose any acute toxicity concerns. Furthermore, based on the US EPA National Home and Garden Pesticide Use Survey (RTI/5100/17–01F, March 1992), the average homeowner is expected to use non-selective herbicides only about four times a year. Thus, these exposures would not normally be factored into a chronic exposure assessment.

E. Cumulative Effects

The potential for cumulative effects of glufosinate-ammonium and other substances that have a common mechanism of toxicity must also be considered. The precise mechanism of action for the toxic effects of glufosinate-ammonium in animals is not known but is believed to result, at least in part, from interference with the neurotransmitter function of glutamate, to which it is a close structural analog. No other registered active ingredients are known to have a similar mechanism of action. Thus, no cumulative effects with other substances are anticipated. Furthermore, the residues on transgenic crops will consist primarily of the metabolites of glufosinate-ammonium, not glufosinate-ammonium itself. These metabolites are less toxic than glufosinate-ammonium and, since they are not structural analogs of glutamate, they should not cause the same effects. Thus, consideration of a common mechanism of toxicity is not appropriate at this time and only the potential risks of glufosinate-ammonium need to be considered in its aggregate exposure assessment.

F. Safety Determinations

1. U.S. Population in General: Based on a complete and reliable toxicity database, the EPA has adopted an RfD value of 0.02 mg/kg/day using the NOEL of 2.1 mg/kg/day from the chronic rat toxicity study and a 100–fold safety factor. Using the conservative exposure assumptions described above, the petitioner has been advised that the EPA has concluded that aggregate exposure to glufosinate-ammonium from the previously established and the proposed tolerances will utilize 6.1 percent of the RfD for the U.S. population. There is generally no concern for exposures below 100 percent of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Therefore, there is a reasonable certainty that no harm will result from aggregate exposure to glufosinate-ammonium residues to the U.S. population in general.

2. Infants and Children: In assessing the potential for additional sensitivity of infants and children to residues of glufosinate-ammonium, one should consider data from developmental toxicity studies in the rat and rabbit and a 2–generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during pre- natal development. Reproduction studies provide information relating to reproductive and other effects on adults and offspring from pre-natal and post-natal exposure to the pesticide.

Three developmental toxicity studies in rats (including pre- and post-natal phases), a developmental toxicity study in rabbits, and a 2-generation rat reproduction study have been conducted with glufosinate-ammonium. No evidence of developmental toxicity was noted in rabbits, even at the maternally toxic dose level of 20 mg/kg/day. No developmental or reproductive effects were noted in rats except at parentally toxic dose levels. The NOEL's for maternal and developmental toxicity in the rat developmental toxicity studies were determined to be 10 mg/kg/day and 50 mg/kg/day, respectively, based on findings of hyperactivity and vaginal bleeding in dams at 50 mg/kg/day and increased incidence of arrested renal and ureter development in fetuses at 250 mg/kg/day. The parental and reproductive NOEL's in the 2-generation rat reproduction study were determined to be 40 ppm (4 mg/kg/day) and 120 ppm (12 mg/kg/day), respectively, based on increased parental kidney weights at 120 ppm and decreased numbers of pups at 360 ppm. In all cases, the reproductive and developmental NOEL's were greater than or equal to the parental NOEL's, thus indicating that glufosinate-ammonium does not pose any increased risk to infants or children.

FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database. Based on the current toxicological data requirements, the database relative to pre- and post-natal effects for children is complete. Further, the NOEL at 2.1 mg/kg/day from the chronic rat study with glufosinate-ammonium, which was used to calculate the RfD (discussed above), is already lower than the NOEL's from the reproductive and developmental studies with glufosinate-ammonium by a factor of at least 6–fold. Therefore, an additional safety factor is not warranted and an RfD of 0.02 mg/kg/day is appropriate for assessing aggregate risk to infants and children.

Using the highly conservative exposure assumptions described above, the petitioner has been advised that EPA has concluded that the percent of the RfD that will be utilized by aggregate exposure to residues of glufosinate-ammonium ranges from 13.6 percent for children 1 to 6 years old, up to 28.3 percent for non-nursing infants (≤1 year old). Using more realistic assumptions concerning anticipated residues and percent crop treated, the percent of RfD utilized would be no more than 5% for infants or children. Therefore, based on the completeness and reliability of the toxicity data and a comprehensive exposure assessment, it may be concluded that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to glufosinate-ammonium residues.

G. International Tolerances

Glufosinate-ammonium as a non-selective herbicide is currently registered in more than 60 countries worldwide for both non-crop use as well as for weed control and desiccation in numerous conventional crops, including corn and soybeans. The following Codex Alimentarius Commission (Codex) Maximum Residue Levels (MRLs) for glufosinate-ammonium on conventional corn and soybeans have been established: maize, at 0.1 ppm, maize forage, at 0.2 ppm and soya bean (dry) at 0.1 ppm. These tolerances are for non-selective uses such as no-till systems or post-directed applications on non-transgenic crops.

The U.S. tolerances for corn and soybean commodities are being proposed at higher levels based on residue trial data submitted by the petitioner. The residue trials were conducted in the U.S. on transgenic corn and soybeans according to the proposed U.S. label parameters for these crops. These use parameters (application rate, application timing, crop growth stage, pre-harvest interval etc.) differ for direct application use on transgenic crops than for non-selective use on conventional crops. Based on the U.S. data, the petitioner's parent company, AgrEvo GmbH of Berlin, Germany has petitioned the Joint Meeting of the Food and Agriculture Organization Panel of Experts on Pesticide Residues in Food and the Environment and the World Health Organization Expert Group on Pesticide Residues (JMPR) to establish Codex MRLs for use on transgenic corn and soybeans that are identical to the tolerances proposed for these commodities in the U.S. It is anticipated that the JMPR will consider and establish the MRLs for glufosinate-ammonium on transgenic crops during 1997–1998.

II. Administrative Matters

Interested persons are invited to submit comments on the this notice of filing. Comments must bear a notation indicating the document control number, [PF–671]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday,except legal holidays.

A record has been established for this notice under docket number [PF–671] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the

use of special characters and any form of encryption.

The official record for this notice, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official notice record which will also include all comments submitted directly in writing. The official notice record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 7, 1996.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96–29576 Filed 11–15–96; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–44632; FRL–5573–3]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of test data on glycidyl methacrylate (GMA) (CAS No. 106–91–2). These data were submitted pursuant to an enforceable testing consent agreement/order issued by EPA under section 4 of the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under 40 CFR 790.60, all TSCA section 4 enforceable consent agreements/orders must contain a statement that results of testing conducted pursuant to testing enforceable consent agreements/orders will be announced to the public in accordance with section 4(d).

I. Test Data Submissions

Test data for glycidyl methacrylate were submitted by Keller and Heckman LLP on behalf of the Dow Chemical Company pursuant to a TSCA section 4 enforceable testing consent agreement/order at 40 CFR 799.5000 and were received by EPA on September 17, 1996. The submission includes a final report entitled ''Glycidyl Methacrylate: Thirteen-Week Vapor Inhalation Toxicity Study in Fischer 344 Rats.'' GMA, a glycidol derivative, is an epoxy resin additive used in paint coating formulations and adhesive applications.

EPA has initiated its review and evaluation process for this data submission. At this time, the Agency is unable to provide any determination as to the completeness of the submission.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPPTS–44632). This record includes a copy of the study reported in this notice. The record is available for inspection from 12 noon to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Nonconfidential Information Center (also known as the TSCA Public Docket Office), Rm. B–607 Northeast Mall, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

List of Subjects

Environmental protection, Test data.

Dated: November 6, 1996.

Paul J. Campanella,

Acting Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 96–29454 Filed 11–15–96; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Hearing Designation Order

The Commission has before it for consideration the following matter:

Licensee	City/State	MM docket No.
Desert Broadcasting Corporation	Desert Center, CA	96–221

(Regarding the renewal application for Station KZAL(FM))

Pursuant to Section 309(e) of the Communications Act of 1934, as amended, Desert Broadcasting Corporation's application for renewal of license has been designated for hearing concerning the following issues:

1. To determine the effect of Eugene B. White's state convictions on the basic qualifications of Desert Broadcasting Corporation.

2. To determine whether Desert Broadcasting Corporation has violated Section 1.65(c) of the Commission's Rules.

3. To determine whether Desert Broadcasting Corporation has violated Section 73.3615 of the Commission's Rules.

4. To determine whether Desert Broadcasting Corporation has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.

5. To determine whether Desert Broadcasting Corporation has the capability and intent to expeditiously resume the broadcast operations of KZAL(FM), consistent with the Commission's Rules.

6. To determine, in light of the evidence adduced pursuant to the preceding issues, whether grant of the subject renewal of license application would serve the public interest, convenience and necessity.

A copy of the complete Hearing Designation Order in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 320), 1919 M Street, N.W., Washington, D.C. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (telephone number 202–857–3800).

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 96–29399 Filed 11–15–96; 8:45 am]

BILLING CODE 6712–01–P

[DA 96–1752]

Streamlining the International Section 214 Authorization Process and Tariff Requirements

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On October 22, 1996, the International Bureau of the Federal Communications Commission adopted an Order on Reconsideration modifying the Order adopting the exclusion list in this proceeding (*Exclusion List Order* adopted on July 26, 1996). The Commission modified the exclusion list by removing CANUS–1 from the exclusion list consistent with a letter from the State Department. This decision should make the market for cable access more competitive, leading to lower prices for U.S. carriers' end users.

EFFECTIVE DATE: October 22, 1996.

FOR FURTHER INFORMATION CONTACT: James Hedlund, Attorney-Advisor, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1399.

SUPPLEMENTARY INFORMATION: This is a summary of the International Bureau's Order adopted on October 22, 1996 and released on October 24, 1996 (DA 96–1752). The full text of this Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. 20554. The complete text of this Order also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037 (202) 857–3800. The Order also is available as a text file at http://www.fcc.gov/Bureaus/International/Orders/da961752.txt. It is available as a WordPerfect file at http://www.fcc.gov/Bureaus/International/Orders/da961752.wp.

Summary of Order

1. On February 29, 1996, the Federal Communications Commission adopted rules to streamline the international Section 214 authorization process and tariff requirements. (*Report and Order, Streamlining the International Section 214 Authorization Process and Tariff Requirements*, IB Docket No. 95–118, FCC 96–79, released March 13, 1996, 61 FR 15724 (April 9, 1996)). The Report and Order adopted procedures for issuing global, rather than country-specific and facility-specific, Section 214 authorizations to qualified applicants. As part of the new procedures, the International Bureau was required to establish and maintain an exclusion list identifying restrictions on providing service using particular facilities or to particular countries for those carriers receiving a global Section 214 authorization. On July 6, 1996, the Commission adopted the exclusion list. (*Exclusion List Order* adopted on July 26, 1996, 61 FR 50023 (September 24, 1996)).

2. On October 22, 1996, the State Department notified the Bureau that it would support the removal of CANUS–1 from the exclusion list, provided that the conditions of the cable landing license granted to OPTEL are not modified. In particular, the State Department requested the Commission to continue to require that the licensee shall not sell or lease any capacity on CANUS–1, including capacity for non-common carrier services, to Teleglobe, its affiliates or any partnerships or joint ventures in which Teleglobe is a participant, unless and until Teleglobe, its affiliates or partnerships or joint ventures in which Teleglobe is a participant has requested and received prior Commission approval for the sale or lease of any such capacity. Further, the State Department requested the Commission to continue to require Teleglobe to obtain specific Section 214 authorization in order to acquire or use capacity on CANUS–1 for common carrier services.

3. Now that the State Department supports the removal of CANUS–1 from the exclusion list, the Commission found that there are no ''imperative circumstances,'' as that term is used in the *Streamlining Order*, warranting the placement of the facility on the exclusion list. The Commission noted that the removal of CANUS–1 from the exclusion list does not in any way modify the conditions placed on OPTEL in the cable landing license. The removal of CANUS–1 from the exclusion list will reduce the regulatory burden on U.S. carriers wishing to obtain capacity on this facility. This decision should make the market for cable access more competitive, leading to lower prices for U.S. carriers' end users.

Ordering Clauses

4. Accordingly, *it is ordered* that pursuant to Section 1.113 of the Commission's Rules, 47 CFR 1.113, the *Exclusion List Order* adopted on July 26, 1996, is modified to the extent detailed above.

5. Accordingly, *it is ordered* that the Exclusion List attached to this order, which identifies restrictions on providing service using particular facilities or to particular countries for those carriers receiving a global Section 214 authorization, is hereby adopted.

6. This *Order* is issued under 0.261 of the Commission's Rules and is effective upon adoption. Petitions for reconsideration under § 1.106 or applications for review under § 1.115 of the Commission's Rules may be filed within 30 days of the date of the public notice of this Order (see 47 CFR 1.4(b)(2)).

Federal Communications Commission

Diane J. Cornell,

Chief, Telecommunications Division, International Bureau.

Attachment—International Section 214 Authorizations

Exclusion List as of October 22, 1996

The following is a list of countries and facilities not covered by grant of global Section 214 authority under § 63.18(e)(1) of the Commission's Rules. 47 CFR 63.18(e)(1). In addition, the facilities listed shall not be used by U.S. carriers authorized under § 63.01 of the Commission's Rules, unless the carrier's Section 214 authorization specifically lists the facility. Carriers desiring to serve countries or use facilities listed as excluded hereon shall file a separate Section 214 application pursuant to § 63.18(e)(6) of the Commission's Rules.

Countries

Cuba (applications for service to this country shall comply with the separate filing requirements of the Commission's Public Notice Report No. I–6831, dated July 27, 1993, ''FCC to Accept Applications for Service to Cuba.'')

Facilities

All non-U.S. licensed Cable and Satellite Systems Except:

Foreign Cable Systems

Aden-Djibouti
APC
APCN
APHRODITE 2
ARIANNE 2
ASEAN
B–M–P
Brunei-Singapore
CADMOS
CANTAT–3
CARAC
CELTIC
China-Japan
CIOS
Denmark-Russia 1
ECFS
EMOS–1
EURAFRICA
Germany-Denmark 1
Germany-Sweden No. 4
Germany-Sweden No. 5
H–J–K
HONTAI–2
ITUR
KATTEGAT–1
Kuantan-Kota Kinabalu
LATVIA-SWEDEN

Malaysia-Thailand
Marseille/Palermo Link
MAT–2
ODIN
PENCAN–5
R–J–K
RIOJA
SAT–2
SEA–ME–WE 2
SEA–ME–WE 3
T–V–H
TAGIDE 2
TASMAN 2
UGARIT
UK–BEL 6
UK-Denmark 4
UK-Germany 5
UK-Netherlands 12
UK-Netherlands 14
UK-Spain 4
UNISUR

This list is subject to change by the Commission when the public interest requires. Before amending the list, the Commission will first issue a public notice giving affected parties the opportunity for comment and hearing on the proposed changes. The Commission will then release an order amending the exclusion list. This list also is subject to change upon issuance of an Executive Order. See Streamlining the Section 214 Authorization Process and Tariff Requirements, IB Docket No. 95–118 FCC 96–79, released March 13, 1996.

For additional information, contact the International Bureau's Telecommunications Division, Policy and Facilities Branch, (202) 418–1460.

[FR Doc. 96–29431 Filed 11–15–96; 8:45 am]
BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–008900–060.
Title: The ''8900'' Lines Agreement.
Parties: A.P. Moller-Maersk Line, DSR–Senator Lines, The National Shipping Company of Saudi Arabia, P&O Containers, Ltd., Sea-Land Service, Inc., United Arab Shipping Company (S.A.G.).

Synopsis: The proposed modification makes several technical corrections to the Agreement: (1) deletes the reference to Agreement No. 203–011408; (2) revises the geographic scope in Article V(1) to correspond with the scope in Article IV of the Agreement; (3) revises Article VI to clarify who will chair meetings in the absence of the Executive Director; (4) revises Articles VII and XIII by substituting ''e-mail'' for ''telex''; (5) revises paragraphs J(1), J(2) and L of Appendix B by substituting ''Executive Director'' for ''Vice Chairman''; and (6) revises paragraph M of Appendix B to provide for arbitration in New Jersey instead of New York.

Agreement No.: 224–200229–003.
Title: Manchester Terminal Corporation/Empire Scott Stevedoring, Inc., Terminal Agreement.
Parties: Manchester Terminal Corporation (''MTC''), Empire Scott Stevedoring, Inc. (''Empire'').
Synopsis: The proposed modification is a renegotiated contract between MTC and Empire. MTC assigns the right to Empire Scott Stevedoring, Inc., to load, unload, handle and render other related services to cargo and containers moving through MTC's facilities. The Agreement also reflects a name change of Scott Marine Services, Inc., to Empire Scott Stevedoring, Inc.

Agreement No.: 224–200972–001.
Title: Port Of Houston/TMM/HLC Terminal Agreement.
Parties: Port of Houston Authority, Transportation Maritima Mexicana, S.A. de C.V. (''TMM''), Hapag-Lloyd (America), Inc. (''HLC'').
Synopsis: The proposed modification amends section IX of the Agreement to specify that storage charges will be based on a reasonable number of containers and chassis. The Agreement is further amended in section VII to specify that the Port, under special conditions, will reimburse TMM or HLC for certain expenses.

Agreement No.: 224–201004.
Title: Indiana's International Port/Burns Harbor General Cargo Terminal Operating Agreement.
Parties: Indiana Port Commission, Indiana Stevedoring and Distribution Corporation (''ISD'').
Synopsis: The Agreement provides that ISD will operate and maintain terminal facilities, for all public users desiring to use ISD's services, at Indiana's International Port/Burns Harbor for an initial period of ten years beginning January 1, 1999.

By Order of the Federal Maritime Commission.

Dated: November 12, 1996.
Joseph C. Polking,
Secretary.
[FR Doc. 96–29424 Filed 11–15–96; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank

indicated or the offices of the Board of Governors not later than December 12, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. The Colonial BancGroup, Inc., Montgomery, Alabama; to merge with D/W Bankshares, Inc., Dalton, Georgia, and thereby indirectly acquire Dalton/Whitfield Bank & Trust, Dalton, Georgia.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. State Financial Services, Inc., Harrodsburg, Kentucky; to become a bank holding company by acquiring State Bank & Trust Company, Harrodsburg, Kentucky.

Board of Governors of the Federal Reserve System, November 12, 1996.

William W. Wiles,

Secretary of the Board.

[FR Doc. 96–29401 Filed 11-15-96; 8:45 am]

BILLING CODE 6210-01-F

[Docket No. R–0937]

Federal Reserve Payment System Risk Policy; Modified Procedures for Measuring Daylight Overdrafts

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Policy Statement.

SUMMARY: The Board has adopted changes to the procedures for measuring daylight overdrafts. Posting times for Treasury investments resulting from electronic federal tax payments have been added to these procedures.

EFFECTIVE DATE: November 18, 1996.

FOR FURTHER INFORMATION CONTACT: Paul Bettge, Manager (202/452–3174), Heidi Richards, Senior Financial Services Analyst (202/452–2598), Division of Reserve Bank Operations and Payment Systems; for the hearing impaired *only:* Telecommunications Device for the Deaf, Dorothea Thompson (202/452–3544).

SUPPLEMENTARY INFORMATION:

Background

The U.S. Department of the Treasury is currently implementing the Electronic Federal Tax Payment System (EFTPS) to facilitate electronic payment of taxes. The transition of taxpayers who are currently required to pay taxes electronically to the new EFTPS system is expected to occur over the next several months.

Most tax payments processed through the EFTPS are expected to be settled through the Automated Clearinghouse (ACH). ACH tax payments processed through the EFTPS will be reinvested each day through the Federal Reserve's Treasury Tax and Loan (TT&L) system into depository institutions' TT&L accounts.[1] Those banks choosing to receive Treasury funds as note option banks will receive EFTPS investments, which are TT&L credits to their Federal Reserve accounts for the amount of tax payments settled via ACH on a given day. Banks that do not choose to hold Treasury investments (remittance option and non-TT&L depository institutions) will not receive EFTPS investments. EFTPS investments provide a means for the Treasury Department to invest tax payments remitted to the Treasury electronically which, under the traditional paper-based tax payment system, would have been retained by depository institutions and credited to their TT&L accounts.

The Board's initial policy statement aimed at controlling daylight overdrafts became effective in 1986 (50 FR 21120, May 22, 1985). The Board's Policy Statement on Payments System Risk establishes maximum limits (caps) and fees on daylight overdrafts in accounts of depository institutions at Federal Reserve Banks. Daylight overdrafts are measured according to a set of ''posting rules'' established by the Board, which comprise a schedule for the posting of debits and credits to institutions' Federal Reserve accounts for different types of payments.[2] Currently, EFTPS investments are not explicitly included in this schedule, and thus would be posted after the close of the Fedwire Funds Transfer System (6:30 p.m. Eastern Time) unless the Board determined otherwise.[3]

Analysis of Daylight Overdraft Posting Times

The Board reviewed potential daylight overdraft posting times for EFTPS investments in light of its original objectives in designing the posting rules. These objectives included reducing intraday float, permitting straightforward monitoring and control of institutions' cash balances during the day, and reflecting the legal rights and obligations of parties to payments.

Posting time options for EFTPS investments considered by the Board included (all times are Eastern Time): (1) post all EFTPS investments at the opening of the Fedwire Funds Transfer System (currently 8:30 a.m.); (2) post EFTPS investments resulting from ACH credit tax payments at the opening of the Fedwire Funds Transfer System and those from ACH debit tax payments at 11:00 a.m.; (3) post all EFTPS investments at 11:00 a.m.; and (4) post all EFTPS investments at 1:00 p.m.

The Board has determined that the second option is most consistent with its objectives in establishing the daylight overdraft posting rules. This option would synchronize the EFTPS investments with the posting of the corresponding ACH tax payments (currently 8:30 a.m. for ACH credit originations and 11:00 a.m. for ACH debit originations).[4] The impact of the EFTPS payments on the intraday Federal Reserve account balances and daylight overdrafts of depository institutions would be minimized, without creating intraday float or compromising the ability of institutions to monitor and control their account balances.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. ch. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the policy statement under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the policy statement.

Policy Statement on Payments System Risk

The ''Federal Reserve Policy Statement on Payments System Risk,'' section I.A., under the heading ''*Modified Procedures for Measuring Daylight Overdrafts*'' (57 FR 47104, October 14, 1992) is amended as follows:

Opening Balance (Previous Day's Closing Balance)

Post at the Opening of Fedwire Funds Transfer System:

+/−Government and commercial ACH credit transactions.

+Treasury Electronic Federal Tax Payment System (EFTPS) investments from ACH credit transactions.

+Advance-notice Treasury investments.

[1] See Department of the Treasury, ''Treasury Tax and Loan Depositaries and Payment of Federal Taxes; Proposed Rule,'' 61 FR 51185–51194, September 30, 1996.

[2] See ''Federal Reserve Policy Statement on Payments System Risk,'' section I.A.

[3] Treasury investments for which advance notice is given are posted to depository institutions' accounts at the opening of the Fedwire Funds Transfer System (currently 8:30 a.m. Eastern Time), while same-day investments are posted as soon as they are processed, but by no later than 1:00 p.m.

[4] Posting times for payments currently posted at the opening of the Fedwire Funds Transfer System may require modification when this opening time is moved to 12:30 a.m. Eastern Time in 1997.

+Treasury state and local government series (SLGs) interest and redemption payments.

+Treasury checks, postal money orders, local Federal Reserve Bank checks, EZ-Clear savings bond redemptions in separately sorted deposits.

* * * * *

Post at 11:00 a.m. Eastern Time:

+/− ACH debit transaction.

+EFTPS investments from ACH debit transactions

* * * * *

By order of the Board of Governors of the Federal Reserve System, November 8, 1996.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 96–29289 Filed 11–15–96; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN 10/14/96 AND 10/25/96

Acquiring person/acquired person/acquired entity	PMN No.	Date terminated
General Electric Company, First Colony Corporation, First Colony Corporation	96–2914	10/15/96
Mississippi Chemical Corporation, First Mississippi Corporation, First Mississippi Corporation	96–2961	10/15/96
W. Don Cornwell, Joel I. Ferguson, WLAJ–TV	96–3005	10/15/96
Cox Enterprises, Inc., Tele-Communications, Inc., Tele-Communications, Inc	96–3051	10/15/96
Tele-Communications, Inc., Cox Enterprises, Inc., Cox Enterprises, Inc	96–3052	10/15/96
PXRE Corporation, Transnational Re Corporation, Transnational Re Corporation	96–3053	10/15/96
Reliastar Financial Corp., Kinnard Investments, Inc., PrimeVest Financial Services, Inc	96–3056	10/15/96
Premier Parks Inc., Mr. Charles R. Wood, Storytown USA, Inc	96–3058	10/15/96
The Gillette Company, Duracell International, Inc., Duracell International, Inc	96–3059	10/15/96
STET—Societa Finanziaria Telefonica, p.a., Concentric Network Corporation, Concentric Network Corporation	96–3067	10/15/96
KELP—1987 Limited Partnership, Gaye Beasley, The Patrician Financial Company	96–3073	10/15/96
Energy Ventures, Inc., Parker Drilling Co., Parker Drilling Co	96–3081	10/15/96
Parker Drilling Company, Energy Ventures, Inc., Mallard Bay Drilling, Inc	96–3082	10/15/96
Hicks, Muse, Tate & Furst Equity Fund III, L.P., American Home Products Corporation, American Home Products Corporation	97–0009	10/15/96
Welsh, Carson, Anderson & Stowe VI, L.P., Behavioral Healthcare Corporation, Behavioral Healthcare Corporation	97–0010	10/15/96
Federated Department Stores, Inc., Dayton Hudson Corporation, Marshal Field Stores, Inc	97–0012	10/15/96
Steven L. Volla, The Bucks County Health System, The Bucks County Health System	97–0013	10/15/96
Northwestern Public Service Company, CGI Holdings, Inc., CGI Holdings, Inc	97–0014	10/15/96
Scott K. Ginsburg, Estate of Willet H. Brown, The Brown Organization	97–0020	10/15/96
Nationwide Mutual Insurance Company, Estate of Willet H. Brown, KGB, Inc	97–0023	10/15/96
HBO & Company, GMIS, Inc., GMIS Inc	97–0025	10/15/96
New Rio, L.L.C., Donna Karan International Inc., DKNY Jeans Logo License Agreement	97–0028	10/15/96
American Mutual Holding Company, Edina Financial Services, Inc., Edina Financial Services, Inc	97–0030	10/15/96
FiTech International Corporation, Mrs. Bruce G. Robert, Magnetic Power Systems, Inc	97–0031	10/15/96
Leggett & Platt, Incorporated, Steadley Company, Steadley Company	96–2732	10/16/96
Birmingham Steel Corporation, Hiuka America Corporation (Debtor in Bankruptcy), Hiuka America Corporation	96–2996	10/16/96
Wajax Limited, Spencer Industries, Inc., Spencer Industries, Inc	97–0034	10/16/96
OCI Holdings Corp., John C. Skoglund, Skoglkund Communications, Inc	97–0037	10/16/96
Sears, Roebuck & Co., Richard L. Elwood, Vulcan Tire Company, Inc	97–0039	10/16/96
C. H. Boehringer Sohn (a German company), Fujisawa Pharmaceutical Co., Ltd. (a Japanese company), Fujisawa USA, Inc	97–0040	10/16/96
AMRESCO, Inc., Russell and Rebecca Jedinak, Quality Mortgage USA, Inc., Quality Funding, Inc	97–0045	10/16/96
Superior National Insurance Group, Inc., Richard H. Pickup, Pac Rim Holding Corporation	97–0046	10/16/96
Premier Parks Inc., James E. Ferrell, Family Recreational Enterprises, Concord Entertainment	97–0054	10/16/96
Mitsui & Co., Ltd., Hiuka America Corporation, Hiuka America Corporation	96–2643	10/17/96
Robert J. Tomsich, The General Electric Company, p.l.c., A. B. Dick Company	97–0043	10/18/96
SBC Communication Inc., HighwayMaster Communications, Inc., HighwayMaster Communications, Inc	97–0052	10/18/96
Air-Cure Technologies, Inc., Ohmstede, Inc., Ohmstede, Inc	97–0058	10/18/96
Redland PLC (an English company), Harry and Dahlia J. Ratrie, Bryn Awel Corporation	97–0112	10/18/96
Swiss Reinsurance Company, Prudential Corporation p.l.c., Mercantile & General U.S. Holdings, Inc	97–0053	10/21/96
HWH Capital Partners, L.P., Castle Harlan Partners, II, Smarte Carte Corporation	97–0064	10/21/96
S.A. Louis Dreyfues et Cie, Electrafina S.A., Rockland Pipeline Company	97–0069	10/21/96
LucasVarity plc, S.B.C., Ltd., S.B.C., Ltd	97–0072	10/21/96
Credit local de France, Credit Communal de Belgique S.A., Credit Communal de Belgique S.A	97–0074	10/21/96
Credit Communal de Belgique, Credit local de France, Credit local de France	97–0075	10/21/96
Micro Warehouse, Inc., Philip E. Corcoran, USA Flex, Inc	97–0119	10/21/96
Micro Warehouse, Inc., Charles S. Wolande, USA Flex, Inc	97–0120	10/21/96

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN 10/14/96 AND 10/25/96—Continued

Acquiring person/acquired person/acquired entity	PMN No.	Date terminated
Clyde Blowers plc, Deutsche Babcock Engergis-und Unwelttechnik AG, Bergemann USA, I	96–3033	10/22/96
Conseco, Inc., American Travellers Corporation, American Travellers Corporation	97–0055	10/22/96
Conseco, Inc., Capitol American Financial Corporation, Capitol American Financial Corporation	97–0056	10/22/96
Clayton, Dubilier & Rice Fund V Limited Partnership, Kinko's New Master Corporation, Kinko's New Master Corporation	97–0065	10/22/96
MCI Communication Corporation, CellStar Corporation, National Auto Center, CellStar, Ltd	97–0066	10/22/96
Franz Haniel & Cie, GmbH (a German company), Metallgesellschaft AG (a German company), Jewo USA, Inc, Jewo USA Inc. Kentucky Corp	97–0071	10/22/96
GVC Corporation, BCM Advanced Research, Inc., BCM Advanced Research, Inc	97–0078	10/22/96
Tyco International Ltd., Societe Commerciale de Metaux et Minerals, RHS Venture Associates, Inc	97–0081	10/22/96
Physicians Resource Group, Inc., Douglas R. Colkitt, a division of EquiMed, Inc	97–0083	10/22/96
Koninklijke PTT Nederland NV, TNT Limited, TNT Limited	97–0089	10/22/96
General Electric Company, Lockheed Martin Corporation, Lockheed Martin Medical Imaging Systems, Inc	97–0091	10/22/96
U.S. Office Products Company, Thomas B. D'Agostino, Standard Forms, Inc. & Hano Business Forms, Inc	97–0092	10/22/96
Thomas B. D'Agostino, U.S. Office Products Company, U.S. Office Products Company	97–0093	10/22/96
Physicians Resource Group, Inc., Welsh, Carson, Anderson & Stowe VI, L.P., American Ophthalmic Incorporated	97–0094	10/22/96
MCN Corporation, MCN Corporation, Ada Cogeneration Limited Partnership	97–0095	10/22/96
Life Re Corporation, General Accident, p.l.c. (an English company), New American Life Insurance Company	97–0100	10/22/96
HFS Incorporated, Christel DeHaan, Resort Condominiums International, Inc	97–0108	10/22/96
Christel DeHaan, HFS Incorporated, HFS Incorporated	97–0109	10/22/96
Theodore J. Bruno, Kent Electronics Corporation, Kent Electronics Corporation	97–0113	10/22/96
Kent Electronics Corporation, Futronix Corporation, Futronix Corporation	97–0114	10/22/96
Molten Metal Technology, Inc., Westinghouse Electric Corporation, Scientific Ecology Group, Inc	97–0115	10/22/96
Chromcraft Revington, Inc., Cochrane Furniture Company, Inc., Cochrane Furniture Company, Inc	97–0117	10/22/96
TCW Special Credits Fund V—The Principal Fund, Matrix International Logistics, Inc., Matrix International Logistics, Inc	97–0123	10/22/96
Bank of Boston Corporation, Publicker Industries, Inc., Masterview Window Company, Inc	97–0104	10/22/96
Michael T. Kennedy, Richard Davidovich, SP Acquisition Corporation	97–0125	10/22/96
Michael T. Kennedy, Michael T. Kennedy, Wincup Holdings, L.P	97–0126	10/22/96
K–III Communications Corporation, BAM Media, Inc., BAM Media, Inc	97–0128	10/22/96
Gulf Polymer and Petrochemical, Inc., BTR plc, Westlake Styrene Corporation	97–0143	10/22/96
Corporate Express, Inc., Sofco, Inc. Employee Stock Ownership Plan, Sofco-Mead, Inc	97–0165	10/22/96
Advanced Medical, Inc., IVAC Holdings, Inc., IVAC Holdings, Inc	96–2770	10/23/96
Cole National Corporation, Grand Metropolitan Public Limited Company, Pearle, Inc., and Pearle Service Corporation	97–0001	10/23/96
Raul Alarcon, Jr., Russell A. Oasis, New Age Broadcasting, Inc., a Florida corporation	97–0059	10/23/96
Ontario Teachers' Pension Plan Board, Longview Fibre Company, Longview Fibre Company	97–0060	10/23/96
BWAY Corporation, Ball Corporation, Ball Corporation	97–0070	10/23/96
3Com Corporation, OnStream Networks, Inc., OnStream Networks, Inc	97–0076	10/23/96
Hicks, Muse, Tate & Furst Equity Fund III, L.P., Hicks, Muse, Tate & Furst Equity Fund II, L.P., Heritage Brands Holdings, Inc	97–0135	10/23/96
Pelican Companies, Inc., Builderway, Inc., Builderway, Inc	97–0151	10/23/96
Continental Cablevision, Inc., Meredith Corporation, Meredith/New Heritage Strategic Partnership	96–2853	10/24/96
Parker Drilling Company, Quail Tools, Inc., Quail Tools, Inc	97–0122	10/24/96
The Presbyterian Foundation for Philadelphia, RHA/Home Office, Inc., Resource Housing of America, Inc	96–2932	10/25/96
Standard Management Corporation, Delta Life Corporation, Shelby Life Insurance Company	96–3030	10/25/96
Tele-Communications, Inc., Jones Cable Income Fund 1–C, Ltd., Jones Cable Income Fund 1–B/C Venture	96–3071	10/25/96
Allen K. Breed and Johnnie Cordell Breed, United Technologies Corporation, UT Automotive, Inc., IPCO, Inc	96–3086	10/25/96
Royal Nedlloyd N.V., P&O Nedlloyd Container Lines (Joint Venture), P&O Nedlloyd Container Lines (Joint Venture)	96–3092	10/25/96
Heilig-Meyers Company, Rhodes, Inc., Rhodes, Inc	97–0029	10/25/96
The Peninsular and Oriental Steam Navigation Company, P&O Nedlloyd Container Lines (Joint Venture), P&O Nedlloyd Container Lines (Joint Venture)	97–0077	10/25/96
Bank of Boston Corporation, Publicker Industries, Inc., Masterview Window Company, Inc	97–0104	10/25/96
The SK Equity Fund, L.P., SWH Corporation, SWH Corporation	97–0132	10/25/96
Paul G. Allen, Herbert Simon, Ticketmaster—Indiana	97–0133	10/25/96
Paul G. Allen, Melvin Simon, Ticketmaster—Indiana	97–0134	10/25/96
Pentair, Inc., Lelund N. Sundet, Century Mfg. Co	97–0140	10/25/96
TCW Special Credits Fund V-The Principal Fund, LEP International Worldwide Ltd., LEP Profit International, Inc	97–0141	10/25/96
GSA, L. P., PepsiCo, Inc., Taco Bell Corp	97–0145	10/25/96
Eveleth Mines, LLC, Oglebay Norton Company, Oglebay Norton Taconite Company	97–0148	10/25/96
Eveleth Mines, LLC, Eveleth Mines, LLC, Eveleth Expansion Company	97–0150	10/25/96
Mr. O. Gene Bicknell, Mr. Clyde Keller, R&W Pizza Huts of North Carolina, Inc	97–0152	10/25/96
Corporate Express, Inc., Glen A. Taylor, St. Paul Book and Stationery Company	97–0153	10/25/96
Bank of Boston Corporation, GBFC, Inc., GBFC, Inc	97–0154	10/25/96
CMS Energy Corporation, Tejas Gas Corporation, Tejas Gas Corporation	97–0156	10/25/96
Intertape Polymer Group Inc. (a Canadian company), The Northwestern Mutual Life Insurance Co., Tape, Incorporated	97–0164	10/25/96
Linsalata Capital Partners Fund II, L.P.,Time Warner, Inc., Fitness Quest Inc	97–0167	10/25/96
Leggett & Platt, Incorporated, Latrobe Plastics Company, Latrobe Plastics Company	97–0168	10/25/96
First Union Corporation, Keystone Investments, Inc., Keystone Investments, Inc	97–01709	10/25/96
Frank E. Richardson, Enterprise Publishing Company, Enterprise Publishing Company	97–0171	10/25/96
Aurora Equity Partners, L.P., Culbro Corporation, Culbro Machine Systems, Inc., et al	97–0174	10/25/96

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN 10/14/96 AND 10/25/96—Continued

Acquiring person/acquired person/acquired entity	PMN No.	Date terminated
Alliance Phamaceutical Corp. Henry L. Hillman, MDV Technologies, Inc	97–0179	10/25/96
Rush Presbyterian—St. Luke's Medical Center, Riverside Health System, Riverside Health System	97–0187	10/25/96
The Beacon Group III—Focus Value Fund, L.P., Berwind Group Partners, Micorpore Inc	97–0188	10/25/96
Aker ASA, Kjell Inge Rokke, RGI (Norway) AS	97–0189	10/25/96

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Parcellena P. Fielding, Contact Representative, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, D.C. 20580, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 96–29024 Filed 11–15–96; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 96N–0308]

Countrymark Cooperative, Inc.; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) held by Countrymark Cooperative, Inc. The NADA provides for the use of tylosin Type A medicated articles to make Type C medicated feeds. Countrymark Cooperative requested the withdrawal of approval of the NADA because they are no longer making Type A medicated articles for use in Type C medicated feeds. In a final rule published elsewhere in this issue of the Federal Register, FDA is amending the regulations by removing those entries which reflect approval of the NADA.

EFFECTIVE DATE: November 29, 1996.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1722.

SUPPLEMENTARY INFORMATION: Countrymark Cooperative, Inc., 950 North Meridian St., Indianapolis, IN 46204–3909 (formerly the Indiana Farm Bureau Cooperative Association, Inc., 120 East Market St., Indianapolis, IN 46204), has voluntarily requested withdrawal of approval of NADA 125–226 that provides for use of tylosin Type A medicated articles to make tylosin Type C medicated swine feeds.

Therefore, under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 125–226, and all supplements and amendments thereto is hereby withdrawn, effective November 29, 1996.

In a final rule published elsewhere in this issue of the Federal Register, FDA is amending 21 CFR 510.600 and 558.625 to reflect withdrawal of approval of this NADA.

Dated: October 18, 1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96–29390 Filed 11–15–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96N–0425]

Paclitaxel Drug Products; Environmental Information Needed in New Drug Applications, Abbreviated New Drug Applications, and Investigational New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing this document to clarify the environmental information that must be submitted to the Center for Drug Evaluation and Research (CDER) for drug products containing paclitaxel. Paclitaxel is an active moiety that may be obtained or derived from various wild or cultivated species of yews. Under the National Environmental Policy Act (NEPA), all Federal agencies are required to assess the environmental impacts of their actions and to ensure that the interested and affected public is informed of environmental analyses. This action is being taken to ensure that environmental factors regarding paclitaxel drug products are adequately assessed.

FOR FURTHER INFORMATION CONTACT: Nancy B. Sager, Center for Drug Evaluation and Research (HFD–357), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5721.

SUPPLEMENTARY INFORMATION:

I. Background

NEPA requires all Federal agencies to assess the environmental impacts of their actions and to ensure that the interested and affected public is informed of environmental analyses. FDA is required under NEPA to consider the environmental impacts of approving drug product applications as an integral part of its regulatory process. FDA's regulations in 21 CFR part 25 specify that environmental assessments (EA's) or abbreviated environmental assessments (AEA's) must be submitted as part of NDA's, antibiotic drug applications, ANDA's, AADA's, IND's, and for other various actions described under § 25.22, unless the action qualifies for a categorical exclusion under §§ 25.23 and 25.24. FDA's regulations at § 25.23(c) provide that a person submitting an application for an action that falls within a class that qualifies for a categorical exclusion shall specify the provision that excludes the action from the requirement for an EA. FDA may require an applicant to provide information that establishes to the agency's satisfaction that the action requested is included within an excluded category and meets the criteria for the applicable exclusion (§ 25.23(c)). FDA will require an EA for any specific action that ordinarily is excluded if the agency has sufficient evidence to establish that the specific proposed action may significantly affect the quality of the human environment (§ 25.23(b)). In the Federal Register of January 11, 1996 (61 FR 1031), FDA announced the availability of a CDER guidance document entitled ''Guidance for Industry for the Submission of an Environmental Assessment in Human Drug Applications and Supplements'' (Guidance for Industry). The document was intended to provide guidance on how to prepare EA's for submission to

CDER in NDA's, antibiotic drug applications, ANDA's, AADA's, and IND's.

II. Paclitaxel Drug Products

The following clarifies the environmental information that must be submitted to CDER for drug products containing paclitaxel. For the purposes of the following discussion, ''applications'' is defined as IND's that are expected to enroll cumulatively 200 or more subjects, NDA's, and ANDA's.

In accordance with FDA's NEPA regulations (21 CFR part 25) and the Guidance for Industry, a person who submits an NDA, ANDA, or IND involving drug products containing paclitaxel shall include an EA for the requested action in the applicable format, unless the action qualifies for a categorical exclusion under §§ 25.23 and 25.24. In accordance with § 25.23(c), FDA will require those persons submitting applications involving drug products containing paclitaxel derived from natural sources to identify the sources of paclitaxel so that FDA can determine whether an EA is required.

FDA will treat all applications involving paclitaxel derived from or otherwise involving Pacific yew trees (Taxus brevifolia) as requiring the preparation of EA's. Accordingly, FDA will require persons to prepare and submit to the FDA EA's for applications involving paclitaxel derived from or otherwise involving the Pacific yew. The EA's shall, among other things, identify all sources of Pacific yew which are expected to be harvested in connection with the manufacture of paclitaxel relating to the application. The EA's shall, among other things, include a discussion of the anticipated environmental impacts of such harvests, measures that may be taken to mitigate adverse impacts, and reasonable alternatives. See in particular, format items 4, 9, 10 and 11, at § 25.31a. If the harvest took place prior to the issuance of this Federal Register notice, the EA's shall discuss, among other things, each such matter including mitigation measures that are still available. FDA will require this information in all future applications involving paclitaxel derived from or otherwise involving the Pacific yew and for all such applications which have not been finally acted upon by FDA by November 18, 1976.

FDA will subject such EA's to the NEPA process, and will complete and issue an EA and finding of no significant impact (FONSI) in accordance with §§ 25.32 and 25.42, or an environmental impact statement (EIS) and record of decision (ROD) in accordance with §§ 25.34 and 25.42, as required by NEPA, before approving any NDA or ANDA involving paclitaxel derived from or otherwise involving the Pacific yew tree. FDA will also subject such EA's for IND's involving paclitaxel derived from or otherwise involving the Pacific yew to the NEPA process, provided that in cases in which the IND involves treatment of subjects with serious or life-threatening disease, as determined by the FDA, the FDA, where NEPA permits, will not place the IND on clinical hold pending the completion of environmental documentation required by NEPA.

FDA is committed to assuring that assessment of environmental factors continues throughout the planning process and is integrated with other program planning at the earliest possible time to ensure that planning and decisions reflect environmental values (§ 25.10). As provided by FDA regulations under § 25.22(b), ''Failure to submit an adequate EA, if one is required, . . . is sufficient grounds for FDA to refuse to file or approve the application or petition.''

EA's, FONSI's, EIS's and ROD's for drug products containing paclitaxel and other pertinent environmental information relating to approvals of drug products containing paclitaxel will be filed in Docket No. 92N–0489. This docket was previously established as a repository of environmental information relating to the first approval of a paclitaxel drug product (Taxol, NDA 20–262).

Dated: November 12, 1996.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 96–29486 Filed 11–15–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96M–0423]

Dade Intl., Inc.; Premarket Approval of the aca® plus PSA Test Kit, aca® plus PSA Calibrator, and aca® plus PSA Control

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Dade Intl., Inc., Newark, DE, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the aca® plus PSA Test Kit, aca® plus PSA Calibrator, and aca® plus PSA Control. FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 9, 1996, of the approval of the application.

DATES: Petitions for administrative review by December 18, 1996.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Peter E. Maxim, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–1293.

SUPPLEMENTARY INFORMATION: On February 1, 1996, Dade Intl., Inc., Newark, DE 19714, submitted to CDRH an application for premarket approval of the aca® plus PSA Test Kit, aca® plus PSA Calibrator, and aca® plus PSA Control. The device is a Prostate Specific Antigen (PSA) Test Kit, which consists of the PSA test pack and reaction vessel used in the aca® plus immunoassay system to quantitatively measure PSA in human serum. Measurements of PSA are used as an aid in the management of prostate cancer patients.

In accordance with the provisions of section 515(c)(2) of the act (21 U.S.C. 360e(c)(2)) as amended by the Safe Medical Devices Act of 1990, this premarket approval application (PMA) was not referred to the Immunology Advisory Panel of the Medical Devices Advisory Committee, an FDA advisory committee, for review and recommendation because the information in the PMA substantially duplicates information previously reviewed by this panel.

On September 9, 1996, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal

hearing under 21 CFR part 12 of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under 21 CFR 10.33(b). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 18, 1996, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 24, 1996.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 96–29487 Filed 11–15–96; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 96M–0424]

Spine-Tech, Inc.; Premarket Approval of BAK™ Interbody Fusion System With Instrumentation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Spine-Tech, Inc., Minneapolis, MN, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the BAK™ Interbody Fusion System with instrumentation. After reviewing the recommendation of the Orthopedic and Rehabilitation Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 20, 1996, of the approval of the application.

DATES: Petitions for administrative review by December 18, 1996.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mark N. Melkerson, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2036.

SUPPLEMENTARY INFORMATION: On August 28, 1995, Spine-Tech, Inc., Minneapolis, MN 55439–2029, submitted to CDRH an application for premarket approval of the BAK™ Interbody Fusion System with instrumentation. This device is an intervertebral body fusion device. It is indicated for use with autogenous bone graft in patients with degenerative disc disease (DDD) at one or two contiguous levels from L2–S1. These DDD patients may also have up to Grade I spondylolisthesis or retrolisthesis at the involved level(s). BAK™ devices are to be implanted via an open anterior or posterior approach. DDD is defined as discogenic back pain with degeneration of the disc confirmed by history and radiographic studies. These patients should be skeletally mature and have had 6 months of nonoperative treatment.

On May 23, 1996, the Orthopedic and Rehabilitation Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended approval of the application. On September 20, 1996, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity For Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under 21 CFR part 12 of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under 21 CFR 10.33(b). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 18, 1996, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 24, 1996.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 96–29394 Filed 11–15–96; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

National Heart, Lung, and Blood Institute; Submission for OMB Review; Comment Request; The Framingham Study

SUMMARY: Under the provisions of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the Federal Register on August 23, 1996, page 43557 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

PROPOSED COLLECTION: Title: The Framingham Study. Type of Information Collection Request: Extension of a currently approved collection (OMB No. 0925–0216). Need and Use of Information Collection: This project involves physical examination and testing of the surviving members of the original Framingham Study cohort and the surviving members of the offspring cohort. Investigators will contact doctors, hospitals, and nursing homes to ascertain participants' cardiovascular events occurring outside the study clinic. Information gathered will be used to further describe the risk factors, occurrence rates, and consequences of cardiovascular disease in middle aged and older men and women. Frequency of Response: The cohort participants respond every two years; the offspring participants respond every four years. Affected Public: Individuals or households; Businesses or other for profit; Small businesses or organizations. Type of Respondents: Middle aged and elderly adults; doctors and staff of hospitals and nursing homes. The annual reporting burden is as follows:

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per responses	Estimated total annual burden hours requested
Original cohort	417	1.0	1.36	566
Offspring cohort	1,300	1.0	3.9	5,100
Event information [1]	1,258	1.0	0.38	472
Total				6,138

[1] Annual burden is placed on doctors, hospitals, nursing homes, and respondent relatives/informants through requests for information which will help in the compilation of the number and nature of new fatal and nonfatal events occurring outside the Framingham examining clinic.

The cost to the respondents consists of their time and travel; time is estimated using a rate of $10.00 per hour and travel is estimated using a cost of $0.35 per mile. The annualized cost to original and offspring cohort respondents is estimated at: $56,640. The annualized cost for event information is $23,173. The Capital Costs are $229,000. The Operating and Maintenance Costs are $2,692.000.

REQUESTS FOR COMMENTS: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

DIRECT COMMENTS TO OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, D.C. 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Ms. Suzanne Anthony, Project Clearance Liaison, National Heart, Lung, and Blood Institute, NIH, Building 31, Room 4A28, MSC 2490, 31 Center Dr., Bethesda, MD 20892–2490 or call non-toll free number (310) 496–1763, or E-mail your request, including your address, to: <AnthonySs@nih.gov>.

COMMENTS DUE DATE: Comments regarding this information collect are best assured of having their full effect if received on or before December 18, 1996.

Dated: November 7, 1996.

Sheila E. Merritt,

Executive Officer, NHLBI.

[FR Doc. 96–29463 Filed 11–15–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code Appendix 2), notice is hereby given of the following National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel (SEP) meeting:

Purpose/Agenda: To review and evaluate research grant applications.

Name of SEP: Scientific Review Group Meeting on Cartilage and Connective Tissue.

Date of Meeting: November 13, 1996.

Time: 7:30 a.m.—adjournment.

Place of Meeting: Holiday Inn-Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

Scientific Review Administrator: Theresa Lo, Ph.D., Natcher Building, 45 Center Drive, Rm 5AS–37B, Bethesda, Maryland 20892–6500, Telephone: 301–594–4952.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 United

States Code. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. [93.846, Project Grants in Arthritis, Musculoskeletal and Skin Diseases Research], National Institutes of Health, HHS)

Dated: November 12, 1996.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 96–29462 Filed 11–15–96; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Institute of Environmental Health Sciences; National Toxicology Program (NTP) Board of Scientific Counselors' Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences (NIEHS), 111 Alexander Drive, Research Triangle Park, North Carolina, on December 13, 1996.

The meeting will be open to the public from 8:45 a.m. to adjournment with attendance limited only by space available. Preliminary agenda topics include: comprehensive presentations and discussion with the Board about the NTP nomination and selection process, and presentations of ongoing and planned research on endocrine disruptors by several Federal health research and regulatory agencies. There will be reports of recent activities by the Board's Biennial Report on Carcinogens Subcommittee and Technical Reports Review Subcommittee. The Board will review concept proposals for a contract to establish an Interagency Center for the Evaluation of Alternative Toxicological Methods, and for expanding the scope of support services for preparation of the Biennial Report of Carcinogens.

The Executive Secretary, Dr. Larry G. Hart, National Toxicology Program, P.O. Box 12233, NIEHS, Research Triangle Park, North Carolina 27709, telephone (919) 541–3971, FAX (919) 541–0295, will have available a firm agenda with times and a roster of Board members prior to the meeting and summary minutes subsequent to the meeting.

Dated: November 11, 1996.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 96–29464 Filed 11–15–96; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Environmental Health Sciences; National Toxicology Program (NTP) Board of Scientific Counselors' Meeting; Review of Draft NTP Technical Reports

Pursuant to Public Law 92–463, notice is hereby given of the next meeting of the NTP Board of Scientific Counselors' Technical Reports Review Subcommittee on December 11 and 12, 1996, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences (NIEHS), 111 Alexander Drive, Research Triangle Park, North Carolina. The meeting will begin at 8:30 a.m. both days and is open to the public. The agenda topic is the peer review of draft Technical Reports of long-term toxicology and carcinogenesis studies from the National Toxicology Program.

Tentatively scheduled to be peer reviewed on December 11–12 are draft Technical Reports of 10 two-year studies, listed alphabetically, along with supporting information in the attached table. All studies were done using Fischer 344 rats and B6C3F_1 mice. The order of review is given in the far right column of the table. Copies of the draft Reports may be obtained, as available, from: Central Data Management, MD E1–02, P.O. Box 12233, Research Triangle Park, NC 27709 (919/541–3419).

Persons wanting to make a formal presentation regarding a particular Technical Report must notify the Executive Secretary by telephone, by FAX, or by mail no later than December 6, 1996, and provide a written copy in advance of the meeting so copies can be made and distributed to all Subcommittee members and staff and make available at the meeting for attendees. Written statements should supplement and may expand on the oral presentation. *Oral presentations should be limited to no more than five minutes.*

The program would welcome receiving toxicology and carcinogenesis information from completed, ongoing, or planned studies by others, as well as current production data, human exposure information, and use patterns for any of the chemicals listed in this announcement. Please contact Central Data Management at the address given above, and they will relay the information to the appropriate staff scientist.

The Executive Secretary, Dr. Larry G. Hart, P.O. Box 12233, Research Triangle Park, North Carolina 27709 (telephone 919/541–3971; FAX 919/541–0295) will furnish agenda and a roster of Subcommittee members prior to the meeting. Summary minutes subsequent to the meeting will be available upon request to Central Data Management.

Dated: November 11, 1996.

Kenneth Olden,

Director, National Toxicology Program.

SUMMARY DATA FOR TECHNICAL REPORTS TENTATIVELY SCHEDULED FOR REVIEW AT THE MEETING OF THE BOARD OF SCIENTIFIC COUNSELOR'S TECHNICAL REPORTS REVIEW SUBCOMMITTEE, DECEMBER 11–12, 1996

Chemical CAS No.	Technical report No.	Primary uses	Route exposure levels	Review order
3′-AZIDO–3′-deoxythymidine (AZT) 30516–87–1 and.	TR–469	Pyrimidine nucleoside analog with antiviral activity used in the treatment of AIDS (Merck 1989).	Gavage 5% Methylcellulose): Mice only: 0, 30, 60, OR 120 MG/KG; 50/SEX.	2
INTERFERON AD+ AZT (AIDS INITIATIVE).		Used in the experimental treatment of AIDS.	Subcutaneous Inj.+ Gavage (.5% Methylcellulose): DUAL ROUTES WITH BOTH COMPOUNDS: AZT: 0, 30, 60, OR 120 (GAV) MG/KG; IFN: 500 OR 5000 UNITS 3X/WEEK.	
CHLOROPRENE 126–99–8	TR–467	Monomer for neoprene elastomers; industrial rubber products; component of laboratory adhesives in food packaging.	Inhalation (Air): Rats & Mice: 0, 12.8, 32.0, OR 80.0 PPM; 50/SEX/SPECIES/GROUP.	4

SUMMARY DATA FOR TECHNICAL REPORTS TENTATIVELY SCHEDULED FOR REVIEW AT THE MEETING OF THE BOARD OF SCIENTIFIC COUNSELOR'S TECHNICAL REPORTS REVIEW SUBCOMMITTEE, DECEMBER 11–12, 1996—Continued

Chemical CAS No.	Technical report No.	Primary uses	Route exposure levels	Review order
COBALT SULFATE HEPTAHYDRATE 10026–24–1.	TR–471	Drying agent for varnishes and inks; component of electroplating solutions.	Inhalation (Air): Rats & Mice; 0, 0.3, 1.0, OR 3.0 MG/M3; 50/SEX/SPECIES/GROUP.	3
ETHLYBENZENE 100–41–4	TR–466	Manufacture of synthetic rubber. Solvent. Fuel additive. Chemical intermediate.	Inhalation (Air) Rats & Mice: 0, 75, 250, 750 PPM (50/SEX/SPECIES/GROUP).	6
ISOBUTYRALDEHYDE 78–84–2.	TR–472	Synthesis of pantothenic acid, cellulose esters, perfumes, flavors, and gasoline additives. Chemical intermediate.	Inhalation (Air) Rats & Mice: 0, 500, 1000, OR 2000 PPM (50/SEX/SPECIES/GROUP).	10
OXAZEPAM 604–75–1	TR–468	Tranquilizer	Dosed-Feed (NIH–07): Rats only: 0, 625, 1250, 2500, 5000, OR 10000 PPM; 50/SEX/GROUP.	1
POLYVINYL ALCOHOL 9002–89–5.	TR–474	PVA film for intravaginal administration of spermicides. Textile warp sizing and finishing, adhesives. Pesticides. Pigment in TV picture tubes.	Intravaginal (Deionized Water): Mice only: 25% PVA, VEHICLE, UNTREATED; 100/GROUP.	8
PRIMIDONE (PRIMACLONE) 125–33–7.	TR–476	Prophylactic management of partial grand mal and psychomotor seizures that are refractory to other antiepileptic drugs.	Dosed-Feed (NIH–07 Mice: 0, 0.03, 0.06, OR 0.13% Rats & Mice: 0, 0.06, 0.13, OR 0.25% (50/SEX/SPECIES).	9
TETRAHYDROFURAN 109–99–9.	TR–475	Reaction medium for grignard and metal hydride reactions. Packaging fabrication. Solvent for resins and plastics. Chemical intermediate.	Inhalation (Air) Rats & Mice: 0, 200, 600, OR 1800 PPM (50/SEX/SPECIES/GROUP).	7
THEOPHYLLINE 58–55–9	TR–473	Diuretic, cardiac stimulant, smooth muscle relaxant, antiasthmatic, occurs naturally in tea (Merck 1989).	Gavage (Corn Oil): Rats: 0, 7.5, 25, OR 75 MG/KG; 50/GROUP Female Mice: 0, 7.5, 25, OR 75 MG/KG; 50/GROUP Male Mice: 0, 15, 50, OR 150 MG/KG; 50/GROUP.	5

[FR Doc. 96–29465 Filed 11–15–96; 8:45 am]
BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration (SAMHSA)

Cancellation of Receipt Date for SAMHSA Conference Grant Applications

AGENCY: Center for Substance Abuse Prevention and Center for Substance Abuse Treatment, SAMHSA.

ACTION: Cancellation of January 10, 1997 Application Receipt Date.

SUMMARY: SAMHSA's Center for Substance Abuse Prevention (CSAP) and Center for Substance Abuse Treatment (CSAT) are canceling the January 10, 1997, receipt date for applications for the following grant programs:

CSAP's Knowledge Dissemination Conference Grants (CFDA No. 93.174)
CSAT's Substance Abuse Treatment Conference Grants (CFDA No. 93.218)

To be placed on a mailing list for an application kit and current programmatic guidelines, potential applicants should contact: National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, Maryland 20847–2345, Tele: 1–800–729–6686; TDD: 1–800–487–4889 Web Address: www.health.org

For information regarding future receipt dates or for programmatic assistance, potential applicants should contact the following individuals:

CSAP: Ms. Luisa del Carmen Pollard, Division of Community Education, CSAP, Rockwall II Building, Suite 800, 5600 Fishers Lane, Rockville, Maryland 20857, Tele: (301) 443–8824.

CSAT: Mr. George Kanuck, Office of Evaluation, Statistical Analysis and Synthesis, CSAT, Rockwall II Building, Suite 840, 5600 Fishers Lane, Rockville, Maryland 20857, Tele: (301) 443–7730.

Dated: November 11, 1996.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 96–29395 Filed 11–15–96; 8:45 am]
BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of Draft Environmental Assessment and Land Protection Plan, Proposed Establishment of Clarks River National Wildlife Refuge, Marshall, McCracken, and Graves Counties, KY

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Availability of the Draft Environmental Assessment and Land Protection Plan for the Proposed Establishment of Clarks River National Wildlife Refuge.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service, Southeast Region, proposes to establish a national wildlife refuge in the vicinity of Marshall, McCracken, and Graves Counties, KY. The purpose of the proposed refuge is to protect, enhance, and manage approximately 18,000 acres of wetlands, bottomland hardwoods, and associated buffer areas for the benefit of migratory and resident waterfowl, neotropical migratory birds, resident wildlife, plant communities, and other species dependent on the

diverse habitats along the East Fork of the Clarks River. A Draft Environmental Assessment and Land Protection Plan for the proposed refuge has been developed by service biologists in coordination with the Kentucky Department of Fish and Wildlife Resources and local county officials. The assessment considers the biological, environmental, and socioeconomic effects of establishing the refuge. The assessment also evaluates three alternative actions and their potential impacts on the environment. Written comments or recommendations concerning the proposal are welcomed and should be sent to the address below.

DATES: Land acquisition planning for the project is currently underway. The draft environmental assessment and land protection plan will be available to the public for review and comment on November 15, 1996. Written comments must be received no later than December 31, 1996, to be considered.

ADDRESSES: Comments and requests for copies of the assessment and for further information on the project should be addressed to Mr. Charles R. Danner, Team Leader, Planning and Support Team, Office of Refuges and Wildlife, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Atlanta, GA 30345, (404) 679–7244.

SUPPLEMENTARY INFORMATION: The proposed refuge area is located in western Kentucky about 5 miles southeast of Paducah, just north of Benton within the floodplain of the East Fork of the Clarks River. Three separate areas are proposed for acquisition: Blizzard Pond, which is just east of the confluence of the East Fork and West Fork of the Clarks River in McCracken County; Burkholder Deadening in Marshall and Graves Counties, just northwest of Benton; and Beaverdam Slough, which is just north of Benton in Marshall County.

The proposed refuge would consist of approximately 18,000 acres of land acquired in fee title from willing sellers.

Dated: November 12, 1996.

Jerome M. Butler,

Acting Regional Director.

[FR Doc. 96–29429 Filed 11–15–96; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Indian Affairs

Proclaiming Certain Lands as Reservation for the Redwood Valley Rancheria of Pomo Indians of California

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Reservation Proclamation.

SUMMARY: The Assistant Secretary—Indian Affairs proclaimed certain lands in Mendocino County, California, as an addition to the reservation of the Redwood Valley Rancheria of Pomo Indians of California on November 1, 1996. This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

FOR FURTHER INFORMATION CONTACT: Larry E. Scrivner, Bureau of Indian Affairs, Chief, Division of Real Estate Services, MS–4510/MIB/Code 220, 1849 C Street, N.W., Washington, D.C. 20240, telephone (202) 208–7737.

SUPPLEMENTARY INFORMATION: On November 1, 1996, by proclamation issued pursuant to the Act of June 18, 1934, (48 Stat. 986; 25 U.S.C. 467), the following-described parcels of land, were proclaimed to be an Indian Reservation for the exclusive use of Indians entitled by enrollment or tribal membership to reside at such reservation.

Redwood Valley Rancheria Reservation

Mendocino County, California

All that certain real property situate, lying and being in the unincorporated area, County of Mendocino, State of California, more particularly described as follows:

Parcel One: Beginning at the Northeast corner of a parcel of land described in a deed from the Finnish Colony, a corporation to V.E. Frost and Z.J. Elliott, dated December 3, 1929, recorded in Liber 48 of Official Records, Page 208, Mendocino County Records (it being a point in the East line of Lot 20 of the Finnish Colony Subdivision, according to the Official plat thereof on file in the Office of the County Recorder of said Mendocino County) from which the Southeast corner of said Lot 20 bears South 8°13′30″ East and is 372.72 feet distant; thence on the exterior boundaries of the land to be described as follows: South 77°17′30″ West along the North line of said Lot of Frost and Elliott 579.04 feet to its Northwest corner; thence North 9°20′ West along a Northerly projection of the West boundary line of said Parcel 660 feet to an iron pin marked ''X'' in the South boundary line of a parcel of land described in a deed from the Bank of America National Trust and Savings Association to Dan Bergamaschi, a single man, dated January 16, 1935, recorded in Liber 100 of Official Records, Page 45, Mendocino County Records; thence North 87°59′ East along said South boundary line 606 feet to the Southeast corner of said last mentioned parcel of land (it being a point in the East boundary line of said Lot 20) thence South 8°13′30″ East along said East boundary line 542.21 feet to the point of beginning. EXCEPTING therefrom that portion conveyed in the Deed to Donald E. Butow et us, dated February 18, 1965, recorded March 3, 1965, in Volume 683 of Official Records, Page 432, Mendocino County Records.

Parcel Two: Beginning at the Southeast corner of Lot 20 of the Finnish Colony Subdivision, originally filed in Map Book 2, Page 189, now on file in Map Case 1, Drawer 4, Page 89; thence from said point of beginning South 78°31′ West, 571.18 feet along the South line of said Lot 20; thence North 9°20′ West 360 feet; thence North 77°17′30″ East 579.04 feet to the East line of said Lot 20; thence South 8°13′30″ East 372.72 feet along the East line of said Lot 20 to the point of beginning. EXCEPTING therefrom that portion conveyed in the Deed to Donald E. Butow et us, dated February 18, 1965, recorded March 3, 1965, in Volume 683 of Official Records, Page 432, Mendocino County Records.

Title to the land described above will be conveyed subject to any valid existing easements for public roads, highways, public utilities, pipelines, and any other valid easements or rights of way now on record.

Dated: November 1, 1996.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 96–29439 Filed 11–15–96; 8:45 am]

BILLING CODE 4310–02–P

Bureau of Land Management

(CA–059–1430–01; CACA 18099)

Public Land Order No. 7224; Revocation of Executive Order dated April 11, 1918; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes an Executive order in its entirety as to the remaining 4.25 acres of lands withdrawn for Power Site Reserve No. 683. The lands are no longer needed for this purpose, and the revocation is necessary to permit completion of a pending land exchange under Section 206 of the Federal Land Policy and Management Act of 1976. This order will open the lands to surface entry unless closed by overlapping

withdrawals or temporary segregations of record. The lands have been and remain open to mineral leasing and to mining under the provisions of the Mining Claims Rights Restoration Act of 1955. The Federal Energy Regulatory Commission has concurred with this action.

EFFECTIVE DATE: December 18, 1996.

FOR FURTHER INFORMATION CONTACT: Duane Marti, BLM California State Office (CA–931.4), 2135 Butano Drive, Sacramento, California 95825, 916–979–2858.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Executive Order dated April 11, 1918, which withdrew public lands for Power Site Reserve No. 683, is hereby revoked in its entirety as to the following described lands:

Mount Diablo Meridian

T. 45 N., R. 7 W.,
SEC. 11, lots 1, 4, 5, 8, 9, and 11;
SEC. 12, lot 3.

The areas described aggregate 4.25 acres in Siskiyou County.

2. At 10 a.m. on December 18, 1996, the lands will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on December 18, 1996, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands have been open to mining under the provisions of the Mining Claims Rights Restoration Act of 1955, 30 U.S.C. 621 (1988) and these provisions are no longer required. The lands have been and will remain open to mineral leasing.

4. The State of California has waived its right of selection in accordance with the provisions of the Act of June 10, 1920, Section 24, as amended, 16 U.S.C. 818 (1988).

Dated: November 4, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–29446 Filed 11–15–96; 8:45 am]

BILLING CODE 4310–40–P

[OR–958–0777–54; GP6–0160; OR–19639 (WA)]

Public Land Order No. 7222; Revocation of Secretarial Order Dated June 22, 1925; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes in its entirety a Secretarial order which withdrew 49.20 acres of National Forest System land for the Bureau of Land Management's Powersite Classification No. 109. The land is no longer needed for the purpose for which it was withdrawn. This action will open 34.20 acres to surface entry. The 15 acre balance remains closed to surface entry and mining by another overlapping withdrawal. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: December 18, 1996.

FOR FURTHER INFORMATION CONTACT: Betty McCarthy, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6155.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Secretarial Order dated June 22, 1925, which established Powersite Classification No. 109, is hereby revoked in its entirety:

Willamette Meridian

Colville National Forest

T. 38 N., R. 43 E.,
Sec. 19, lot 6;
Sec. 20, lot 2.

The area described contains 49.20 acres in Pend Oreille County.

2. The land described as lot 6 of sec. 19 and that portion of lot 2 of sec. 20 lying within the boundary of Power Project No. 2042, remain closed to such forms of disposition as may by law be made of National Forest System land, including the mining laws.

3. At 8:30 a.m. on December 18, 1996, the land described in paragraph 1, except as provided in paragraph 2, will be open to such forms of disposition as may by law be made of National Forest System land, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on December 18, 1996, shall be considered as simultaneously filed at that time.

4. The land described in paragraph 1, except as provided in paragraph 2, has been and continues to be open to location and entry under the mining laws, and to applications and offers under the mineral leasing laws.

Dated: November 4, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–29445 Filed 11–15–96; 8:45 am]

BILLING CODE 4310–33–P

[OR–958–1430–01; GP6–0106; OR–19665 (WA)]

Public Land Order No. 7221; Revocation of the Secretarial Order Dated March 28, 1938; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes in its entirety a Secretarial order which withdrew 40 acres of public land for the Bureau of Land Management's Powersite Classification No. 306. The land is no longer needed for the purpose for which it was withdrawn. The land is in an overlapping withdrawal and remains closed to surface entry and mining. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: December 18, 1996.

FOR FURTHER INFORMATION CONTACT: Betty McCarthy, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6155.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Secretarial Order dated March 28, 1938, which withdrew the following described land for Powersite Classification No. 306, is hereby revoked in its entirety:

Willamette Meridian

T. 27 N., R. 23 E.,
Sec. 17, NW¼SE¼.

The area described contains 40 acres in Chelan County.

2. The land is included in the Bureau of Reclamation's withdrawal for the Chelan Project, and remains closed to operation of the public land laws, including the mining laws.

Dated: November 4, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–29447 Filed 11–15–96; 8:45 am]

BILLING CODE 4310–33–P

[NM–018–1430–01; NMNM 94996]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 4,972.14 acres of public land in Taos County, New Mexico to protect the recreational, cultural, wildlife and visual resources of the Wild Rivers Special Management Area (SMA) and the Guadalupe Mountain Area of Critical Environmental Concern (ACEC). This notice closes the land for up to two years from surface entry and mining. The land will remain open to mineral leasing.

DATES: Comments and requests for a public meeting must be received by February 18, 1997.

ADDRESSES: Comments and meeting requests should be sent to the Albuquerque District Manager, Bureau of Land Management, 435 Montano NE, Albuquerque, New Mexico 87107.

FOR FURTHER INFORMATION CONTACT: Hal Knox, BLM Taos Resource Area Office, 226 Cruz Alta Road, Taos, NM 87571, (505) 751–4707.

SUPPLEMENTARY INFORMATION: On December 8, 1995, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights.

New Mexico Principal Meridian

T. 28 N., R. 12 E.,
Sec. 2, lot 6, S½NW¼NW¼, N½N½SW¼, N½NW¼SE¼, S½N½, and area lying north of the Red River;
T. 29 N., R. 12 E.,
Sec. 10, lots 6, 7, 8, NE¼SE¼, and S½S½;
Sec. 13, SW¼;
Sec. 14, all;
Sec. 15, all;
Sec. 20, lot 8;
Sec. 21, S½;
Sec. 22, E½, NW¼, and E½E½SW¼;
Sec. 23, all;
Sec. 24, NW¼ and W½SW¼;
Sec. 26, N½, SW¼, N½N½NE¼SE¼, SW¼NW¼NE¼SE¼, W½SW¼NE¼SE¼, NW¼SE¼, N½SW¼SE¼, SW¼SW¼SE¼, and NW¼SE¼SW¼SE¼;
Sec. 27, E½E½ and E½W½E½;
Sec. 34, E½;
Sec. 35, W½NW¼, W½E½NW¼SW¼, W½NW¼SW¼, W½NE¼SW¼SW¼, NW¼SW¼SW¼, N½SW¼SW¼SW¼, and SW¼SW¼SW¼SW¼.

The area described contains 4,972.14 acres in Taos County.

The purpose of the proposed withdrawal is to protect the recreational, cultural, wildlife and visual resources of the Wild Rivers Special SMA and the Guadalupe Mountain ACEC.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions or objections, in connection with the proposed withdrawal, may present their views in writing to the Albuquerque District Manager of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Albuquerque District Manager within 90 days from the date of publication of this notice.

Upon a determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the Federal Register at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the Federal Register, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period are licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature, but only with the approval of an authorized officer of the Bureau of Land Management.

Dated: November 6, 1996.

Michael R. Ford,

District Manager.

[FR Doc. 96–29404 Filed 11–15–96; 8:45 am]

BILLING CODE 4310–FB–P

National Park Service

Draft Environmental Impact Statement (DEIS) for Lake Crescent Management Plan, Olympic National Park, WA

AGENCY: National Park Service, Interior.

ACTION: Notice of extension of public review period.

SUMMARY: The comment period as specified in the official Notice of Availability (FR, Vol. 61, No. 203, p. 54437) was to end December 17, 1996. This present Notice announces that the comment period has been extended until February 3, 1997.

DATES: Comments on the DEIS must be received no later than February 3, 1997.

ADDRESSES: Written comments should be submitted to the Superintendent, Olympic National Park, 600 E. Park Ave., Port Angeles, WA 98362.

FOR FURTHER INFORMATION CONTACT: Superintendent, Olympic National Park, at the above address or at telephone number (360) 452–4501, ext. 207.

Dated: November 8, 1996.

William C. Walters,

Deputy Field Director, Pacific West Field Area.

[FR Doc. 96–29408 Filed 11–15–96; 8:45 am]

BILLING CODE 4310–70–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

Public Hearing

AGENCY: Overseas Private Investment Corporation.

ACTION: Notice of public hearing.

SUMMARY: This notice sets forth the schedule and requirements for participation in an annual public hearing to be conducted by the Overseas Private Investment Corporation (OPIC) on December 12, 1996. This hearing is required by the OPIC Amendments Act of 1985, and this notice is being published to facilitate public participation. The notice also describes OPIC and the subject matter of the hearing.

DATES: The hearing will be held on December 12, 1996, and will begin promptly at 2 p.m. Prospective participants must submit to OPIC before close of business November 28, 1996, notice of their intent to participate.

ADDRESSES: The location of the hearing will be: Overseas Private Investment Corporation, 1100 New York Avenue NW., 12th Floor, Washington, DC. Notices and prepared statements should be sent to Harvey Himberg, Financial Management and Statutory Review Department, Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527.

Procedure

(a) Attendance; Participation. The hearing will be open to the public. However, a person wishing to present views at the hearing must provide OPIC with advance notice on or before November 28, 1996. The notice must include the name, address and

telephone number of the person who will make the presentation, the name and address of the organization which the person represents (if any) and a concise summary of the subject matter of the presentation.

(b) Prepared Statements. Any particular wishing to submit a prepared statement for the record must submit it to OPIC with the notice or, in any event, not later than 5 p.m. on December 5, 1996. Prepared statements must be typewritten, double spaced and may not exceed twenty-five (25) pages.

(c) Duration of Presentations. Oral presentations will in no event exceed ten (10) minutes, and the time for individual presentations may be reduced proportionately, if necessary, to afford all prospective participants on a particular subject an opportunity to be heard or to permit all subjects to be covered.

(d) Agenda. Upon receipt of the required notices, OPIC will prepare an agenda for the hearing setting forth the subject or subjects on which each participant will speak and the time allotted for each presentation. OPIC will provide each prospective participant with a copy of the agenda.

(e) Publication of Proceedings. A verbatim transcript of the hearing will be compiled. The transcript will be available to members of the public at the cost of reproduction.

SUPPLEMENTARY INFORMATION: OPIC is a U.S. Government agency which provides, on a commercial basis, political risk insurance and financing in friendly developing countries and emerging democracies for environmentally sound projects which confer positive developmental benefits upon the project country while creating employment in the U.S. OPIC is required by section 231A(b) of the Foreign Assistance Act of 1961, as amended (''the Act'') to hold at least one public hearing each year.

Among other issues, OPIC's annual public hearing has, in previous years, provided a forum for testimony concerning section 231A(a) of the Act. This section provides that OPIC may operate its programs only in those countries that are determined to be ''taking steps to adopt and implement laws that extend internationally recognized worker rights to workers in that country (including any designated zone in that country).''

Based on consultations with Congress, OPIC complies with annual determinations made by the Executive Branch with respect to worker rights for countries that are eligible for the Generalized System of Preferences (GSP). Any country for which GSP eligibility is revoked on account of its failure to take steps to adopt and implement internationally recognized worker rights is subject concurrently to the suspension of OPIC programs until such time as a favorable worker rights determination can be made.

For non-GSP countries in which OPIC operates its programs, OPIC reviews any country which is the subject of a formal challenge at its annual public hearing. To qualify as a formal challenge, testimony must pertain directly to the worker rights requirements of the law as defined in OPIC's 1985 reauthorizing legislation (P.L. 99–204) with reference to the Trade Act of 1974, as amended, and be supported by factual information.

FOR FURTHER INFORMATION ABOUT THE PUBLIC HEARING CONTACT:
Harvey A. Himberg, Financial Management and Statutory Review Department, Overseas Private Investment Corporation, 1100 New York Avenue NW Washington, DC 20527 (202) 336–8614 or by facsimile at (202) 218–0177.

Dated: November 13, 1996.

Richard C. Horanburg,

Department of Investment Development.

[FR Doc. 96–29461 Filed 11–15–96; 8:45 am]

BILLING CODE 3210–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. U S West, Inc. & Continental Cablevision, Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16 (b) through (h), that a proposed Final Judgment has been filed with the United States District Court for the District of Columbia in *United States of America* v. *U S West, Inc. and Continental Cablevision, Inc.*, Civil Action 96–2529 (TPJ).

The Complaint in this case alleged that the proposed acquisition of Continental Cablevision, Inc. by U S West, Inc. would tend to lessen competition substantially in the sale of dedicated services in areas within Denver, Colorado; Omaha, Nebraska; Phoenix, Arizona; and Seattle, Washington in which Teleport Communications Group, Inc. (''TCG'') provides such services, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18. Continental owns approximately 11% of TCG. Under the terms of the proposed Final Judgment, US WEST must reduce its share of TCG to no more than 10% by June 30, 1997. US WEST must divest the remaining interest in TCG by December 31, 1998. The proposed Final Judgment also prohibits US WEST from appointing members to or participating in meetings of TCG's Board of Directors and contains other provisions barring US WEST's access to confidential TCG information pending completion of the divestitures.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the Federal Register and filed with the Court. Comments should be directed to Donald J. Russell, Chief, Telecommunications Task Force, Antitrust Division, Department of Justice, 555 4th Street, N.W., Room 8104, Washington, D.C. 20001, (telephone: (202) 514–5621).

Constance K. Robinson,

Director of Operations, Antitrust Division.

United States District Court for the District of Columbia

United States of America, Plaintiff, v. *U S West, Inc. and Continental Cablevision, Inc.,* Defendants. No. 96 2529; (Antitrust) filed: November 5, 1996.

Judge Thomas Penfield Jackson

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

A. The parties to this Stipulation consent that a Final Judgment in the form attached may be filed and entered by the Court, upon any party's or the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before entry of the proposed Final Judgment by serving notice on the defendants and by filing that notice with the Court.

B. The parties shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment, and shall, from the date of the filing of this Stipulation, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court; provided, however, that U S West's obligation to divest the TCG Interest shall not arise until the Final Judgment is entered, except that the manner and timing of any disposition of the TCG Interest by U S West before or after the Final Judgment's entry shall be

done as provided in the proposed Final Judgment.

C. In the event plaintiff withdraws its consent, as provided in paragraph (A) above, or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

D. Defendants represent that the divestitures contemplated by the proposed Final Judgment can and will be made and that defendants shall raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions in the Final Judgment.

E. All parties agree that this agreement can be signed in multiple counter-parts.

For the Plaintiff:

David Turetsky,

Deputy Assistant Attorney General.

Donald J. Russell,

Chief, Telecommunications Task Force.

Charles E. Biggio,

Senior Counsel.

Nancy M. Goodman,

Assistant Chief, Telecommunications Task Force.

Yvette Benguerel,

Attorney, Telecommunications Task Force.

Susanna Zwerling,

Attorney, Telecommunications Task Force.

Brent E. Marshall,

Attorney, Telecommunications Task Force.

U.S. Department of Justice, Antitrust Division, 555 4th Street, N.W., Room 8104, Washington, DC 20001, (202) 514–5808.

Dated: _____.

For the Defendants:

James Anderson,

Vice President & Treasurer, U S West, Inc.

Dated: _____.

Robert J. Sachs,

Senior Vice President, Corporate & Legal Continental Cablevision, Inc.

Dated: _____.

Final Judgment

Whereas, plaintiff, the United States of America, having filed its Complaint herein on November 4, 1996, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law or fact herein:

And whereas, defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, the essence of this Final Judgment is prompt and certain divestiture of certain assets and the imposition of related injunctive relief to assure that competition is not substantially lessened;

And whereas, plaintiff requires U S WEST, Inc. to make certain divestitures for the purpose of remedying the lack of competition alleged in the Complaint;

And whereas, defendants have represented to plaintiff that the divestitures ordered herein can be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained herein below;

And, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, *it is hereby ordered, adjudged, and decreed* as follows:

I. Jurisdiction

This Court has jurisdiction over each of the parties hereto and the subject matter of this action. The Complaint states a claim upon which relief may be granted against the defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II. Definitions

A. ''U S WEST'' means defendant U S WEST, Inc., a Delaware corporation with its headquarters in Englewood, Colorado and includes its successors and assigns, its subsidiaries, and directors, officers, managers, agents and employees acting for or on behalf of U S WEST.

B. ''U S WEST Communications'' means U S WEST Communications, Inc., a subsidiary of U S WEST, Inc., and its successors and assigns, its subsidiaries and directors, officers, managers, agents and employees acting for it or on its behalf.

C. ''Continental'' means defendant Continental Cablevision, Inc., a Delaware corporation with its headquarters in Boston, Massachusetts, and includes its successors and assigns, its subsidiaries, and directors, officers, managers, agents and employees acting for or on behalf of Continental.

D. ''TCG'' means Telephone Communications Group Inc., a Delaware corporation with its headquarters in New York, New York.

E. ''TCG Interest'' means any and all of the TCG Common Stock owned by Continental as of June 27, 1996, including any securities into which such stock may subsequently be converted. ''TCG Common Stock'' means TCG Class A Common Stock, with a par value of $.01/share, and TCG Class B Common Stock, with a par value of $.01/share.

F. ''U S WEST/Continental Merger'' means the merger of Continental into U S WEST, as contemplated by the U S WEST/Continental Merger Agreement.

G. ''U S WEST/Continental Merger Agreement'' means the Agreement and Plan of Merger dated as of February 27, 1996, as amended, with respect to the merger of Continental into U S WEST.

H. ''U S WEST Communications Region'' means the collective area in the states of Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming in which U S WEST Communications is a local exchange carrier.

III. Applicability

A. The provisions of this Final Judgment apply to each of the defendants, its successors and assigns, its subsidiaries, directors, officers, managers, agents, employees and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale or other disposition of all or substantially all the assets of the entity or entities holding the TCG Interest at the time of such sale or disposition, that the acquiring party or parties agree to be bound by the provisions of this Final Judgment: provided, however, that this obligation shall not apply in the case of the divestiture required by Section IV or V hereinbelow.

IV. Divestiture of TCG Interest

A. U S WEST is hereby ordered and directed, in accordance with the terms of this Final Judgment, on or before June 30, 1997, to divest a portion of the TCG Interest sufficient to cause U S WEST to own less than 10% of the outstanding shares of TCG Common Stock. U S WEST is hereby further ordered and directed, in accordance with the terms of this Final Judgment, on or before December 31, 1998, to divest any remaining portion of the TCG Interest. Defendants agree to use their best efforts to accomplish the divestitures as set forth in this Final Judgment as expeditiously as possible.

B. Unless plaintiff otherwise consents in writing, the divestitures made pursuant to Section IV or V of this Final Judgment, shall be made (i) to a

purchaser or purchasers that, in the plaintiff's sole judgment, are financially sound and have the intention of maintaining TCG as a viable competitor and (ii) in a manner that, in plaintiff's sole judgment, shall not injure TCG.

C. In accomplishing the divestitures ordered by this Final Judgment, defendants promptly shall make known, by usual and customary means, the availability of the TCG Interest. The defendants shall inform any person making a bona fide inquiry regarding such a possible purchase that the sale is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment: provided, however, that the defendants are not obligated to provide such notice to any purchaser(s) of TCG Common Stock in any proposed sale by U S WEST or its broker if the identity of the ultimate purchaser(s) of the shares is unknown to U S WEST at the time of such sale. Defendants shall also offer to furnish all bona fide prospective purchasers in a proposed private sale all current publicly-available information filed with the Securities and Exchange Commission (''SEC'') regarding the TCG Interest. Defendants shall make available such information to plaintiff at the same time that such information is delivered by defendants to any other person.

D. Defendants shall not finance any part of any divestiture required by this Final Judgment without the prior written consent of the Department of Justice.

V. Appointment of Trustee

A. In the event that U S WEST has not divested the TCG Interest within the time periods specified in Section IV of this Final Judgment, the Court shall appoint, on application of the plaintiff, a trustee selected by the plaintiff to effect the divestiture of any remaining portion of the TCG Interest not divested within the time periods set forth in this Final Judgment.

B. After the trustee's appointment has become effective, only the trustee shall have the right to sell the TCG Interest. The trustee shall have the power and authority to accomplish the divestiture at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections V and VI of this Final Judgment, and shall have other powers as the Court shall deem appropriate. Subject to Section V.C. of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of defendants any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestiture, and such professionals or agents shall be solely accountable to the trustee. The trustee shall have the power and authority to accomplish the divestiture at the earliest possible time to a purchaser or in a manner acceptable to plaintiff, and shall have such other powers as this Court shall deem appropriate. Defendants shall not object to the sale of the affected assets or interest by the trustee on any grounds other than the trustee's malfeasance. Any such objection by defendants must be conveyed in writing to plaintiff and the trustee no later than fifteen (15) calendar days after the trustee has provided the notice required under Section VI of this Final Judgment.

C. The trustee shall serve at the cost and expense of defendants, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining monies shall be paid to defendants and the trustee's services shall then be terminated. The compensation of such trustee and of any professionals and agents retained by the trustee shall be reasonable in light of the value of the divestiture and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. Defendants shall take no action to interfere with or impede the trustee's accomplishment of the divestiture of the affected assets or interest and shall use their best efforts to assist the trustee in accomplishing the required divestiture, including best efforts to effect all necessary regulatory approvals. Subject to a customary confidentiality agreement, the trustee shall have full and complete access to the defendants' personnel, books, records, and facilities related to the TCG Interest. Defendants shall permit prospective purchasers of the TCG Interest to have access to any and all financial or operational information in their possession as may be relevant to the divestiture required by this Final Judgment.

E. After its appointment becomes effective, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish divestiture of any of the TCG Interest as contemplated under this Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any or all of the TCG Interest and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest any or all of the TCG Interest.

F. Within six (6) months after its appointment has become effective, if the trustee has not accomplished the divestiture required by Section IV of this Final Judgment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such reports to the parties, who shall each have the right to be heard and to make additional recommendations. The Court shall thereafter enter such orders as it shall deem appropriate, which shall, if necessary, include extending the term of the trustee's appointment.

VI. Notification

A. Within two (2) business days following execution of a definitive agreement to effect, in whole or in part, any proposed divestiture by private sale(s) pursuant to Sections IV or V of this Final Judgment, or, in the event such divestitures are proposed to be made through transactions in the public securities markets, (i) within two (2) business days following defendants' request to convert any Class B Common Stock to Class A Common Stock or (ii) prior to the filing of any registration statement with the SEC for a proposed divestiture of such shares, U S WEST or the trustee, whichever is then responsible for effecting the divestiture, shall notify plaintiff of the proposed divestiture or conversion, as the case may be. If the trustee is responsible, it shall similarly notify defendants. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who theretofor offered to, or expressed an interest in or a desire to, acquire any ownership interest in the assets that are

the subject of the binding contract or public offering, together with full details of same. In the case of conversion, U S WEST or the trustee shall include in such notice the then proposed manner in which it intends to effect the divestiture of such converted shares.

B. Except in the case of any proposed sale of TCG Common Stock by U S WEST or its broker wherein the identity of the ultimate purchaser(s) of the shares is unknown to U S WEST at the time of such sale, within fifteen (15) calendar days of receipt by plaintiff of such notice, plaintiff may request from defendants, the proposed purchaser or purchasers, any other third party, or the trustee if applicable, additional information concerning the proposed divestiture and the proposed purchaser or purchasers. Defendants and the trustee shall furnish any additional information requested within fifteen (15) calendar days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after plaintiff has been provided the additional information requested from defendants, the proposed purchaser or purchasers, any third party, and the trustee, whichever is later, plaintiff shall provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed divestiture. In the event of any proposed public sale of TCG Common Stock by U S WEST or its broker wherein the identity of the ultimate purchaser(s) of the shares is unknown to U S WEST at the time of such sale, within three (3) days of receiving notice of defendants' request to convert the TCG Class B shares to Class A shares, plaintiff may request from defendants, any third party, or the trustee if applicable, additional information concerning the proposed divestiture(s). Defendants and the trustee shall furnish any additional information requested within three (3) days of the receipt of the request unless the parties otherwise agree. Within ten (10) days of the receipt of the notice or within four (4) days after plaintiff has been provided the additional information from defendants, any third party, or the trustee, whichever is later, plaintiff shall provide written notice to defendants and the trustee, if there is one, stating whether or not it objects to the proposed plan of divestiture(s). If plaintiff provides written notice to defendants and the trustee that it does not object, then the divestiture may be consummated, subject only to defendants' limited right to object to the sale under Section V.B. of this Final Judgment. Absent written notice that plaintiff does not object to the proposed purchaser or objection by plaintiff, a divestiture proposed under Section IV or V shall not be consummated. Upon objection by plaintiff, or by defendants under the proviso in Section V.B., a divestiture proposed under Section IV or V shall not be consummated unless approved by the Court.

VII. Affidavits

A. Within twenty (20) calendar days of the filing of this Final Judgment and every thirty (30) calendar days thereafter until the divestitures have been completed, whether pursuant to Section IV or V of this Final Judgment, U S West shall deliver to plaintiff an affidavit as to the fact and manner of defendant's compliance with the relevant section(s) of this Final Judgment. Each such affidavit shall include, *inter alia*, the name, address, and telephone number of each person who, at any time after the period covered by the last such report, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring any or all of the TCG Interest, and shall describe in detail each contact with any such person during that period.

B. Defendants shall preserve all records of all efforts made to preserve and divest any or all of the TCG Interest until the termination of this Final Judgment.

VIII. Confidentiality

Until the divestitures required by the Final Judgment have been accomplished:

A. U S WEST shall treat the TCG Interest as a passive investment, and shall hold the TCG Interest separate and apart from the activities and interests of U S West Communications.

B. Defendants shall not elect, appoint, or otherwise designate any directors to the TCG Board of Directors.

C. Defendants and any representative of defendants shall not participate in, be present at (whether in person, by telecommunications link, or otherwise), or receive any notes, minutes, or agendas of or any documents distributed in connection with any non-public meeting of the TCG Board of Directors or any committee thereof, or any other governing body of TCG. For purposes of this provision, the term ''meeting'' includes any action taken by consent of the relevant directors in lieu of a meeting.

D. Defendants shall not be a party to any communication of any non-public strategic or confidential information concerning TCG or any of its subsidiaries or affiliates; provided however, that nothing in this Final Judgment shall preclude or restrict defendants from being a party to communications relating to the negotiation or conduct of arms-length business transactions between defendants and TCG or any of its subsidiaries or affiliates, relating to 1) the provision of facilities and services outside the U S WEST Communications Region and 2) the provision of interconnection and related services between U S WEST Communications and TCG or any of its subsidiaries or affiliates, within the U S WEST Communications Region; provided further that outside counsel and financial advisors retained by U S WEST or Continental in conjunction with the divestiture of TCG Common Stock required by section IV.A. hereinabove may receive such information as is necessary to effectuate those transactions and provided further, that no such information shall be shared with Continental or U S WEST.

E. Defendants shall appoint a person or persons who will be responsible for defendants' compliance with section VII of this Final Judgment.

IX. Compliance Inspection

Only for the purposes of determining or securing compliance with the Final Judgment and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the United States Department of Justice, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants made to their principal offices, shall be permitted:

(1) Access during office hour of defendants to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, who may have counsel present, relating to enforcement of this Final Judgment; and

(2) Subject to the reasonable convenience of defendants and without restraint or interference from them, to interview officers, employees, and agents of defendants, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, made to defendants' principal offices, defendants shall submit such written reports, under oath

if requested, with respect to enforcement of this Final Judgment.

C. No information or documents obtained by the means provided in this Section IX shall be divulged by plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by defendants to plaintiff, defendants represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendants mark each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then ten (10) calendar days notice shall be given by plaintiff to defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

X. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XI. Termination

Unless this Court grants an extension, this Final Judgment will expire upon the tenth anniversary of the date of its entry.

XII. Public Interest

Entry of this Final Judgment is in the public interest.

Dated: _____.

_____

United States District Judge.

Competitive Impact Statement

The United States pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

The plaintiff filed a civil antitrust complaint on November 4, 1996, alleging that the proposed acquisition of Continental Cablevision, Inc. (''Continental'') by U S WEST, Inc. (''U S West'') would violate Section 7 of the Clayton Act, 15 U.S.C. 18. U S WEST is the dominant provider of local telecommunications services, including dedicated services, within its telephone service area in the states of Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming. Continental is the third largest cable system operator in the United States. At the time the acquisition was announced, Continental owned 20% of Teleport Communications Group, Inc. (''TCG''), a competitive access provider (''CAP'') providing dedicated services in various cities across the nation, including Denver, Omaha, Phoenix and Seattle.

The complaint alleges that U S WEST's acquisition of Continental's interest in TCG would substantially lessen competition in the sale of dedicated services in the areas within Denver, Omaha, Phoenix and Seattle in which TCG provides such services. The prayer for relief seeks: (1) a judgment that the proposed acquisition would violate Section 7 of the Clayton Act, 15 U.S.C. 18, and (2) a preliminary and permanent injunction preventing U S WEST and Continental from carrying out the proposed merger.

Shortly before this complaint was filed, a proposed settlement was reached that requires defendants to divest Continental's interest in TCG by December 31, 1998. Continental had previously reduced its share in TCG from the 20% it owned when the acquisition was announced, to approximately 11%. Continental also relinquished its seats on TCG's Board of Directors. In light of these events, the Department concluded that there was no competition-based reason to seek to prohibit U S WEST's acquisition of Continental. A Stipulation and proposed Final Judgment embodying the settlement were filed simultaneously with the complaint.

The proposed Final Judgment orders U S WEST, on or before June 30, 1997, to divest a portion of the shares of TCG Common Stock it will acquire from Continental sufficient to reduce U S WEST's interest to less than 10% of the outstanding shares of TCG Common Stock. The proposed Final Judgment further orders U S WEST to divest its remaining shares of TCG Common Stock on or before December 31, 1998. If U S WEST does not divest the TCG Common Stock during the divestiture period, the Court may appoint a trustee to sell the stock. The proposed Final Judgment also prohibits defendants from appointing any members to or participating in meetings of the TCG Board of Directors and contains other provisions designed to bar U S WEST's access to highly sensitive TCG business information. Further, the proposed Final Judgment requires U S WEST to treat the TCG interest as a passive investment, and to hold the TCG interest separate and apart from the activities and interests of U S WEST. Finally, the proposed Final Judgment requires U S WEST to give the United States prior notice of any proposed divestiture, whether pursuant to a public or private sale, to insure that the divestiture is made to an appropriate purchaser or purchasers and in a manner that will not harm TCG.

The United States and U S WEST have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Description of the Events Giving Rise to the Alleged Violation

A. The Defendants and the Proposed Transaction

Defendant U S WEST is a Delaware corporation with its headquarters in Englewood, Colorado. U S WEST is one of the seven Regional Bell Operating Companies (''RBOCs''). It is the dominant provider of local telecommunications services, including ''dedicated services'' (defined as special access and local private line services) within its telephone service area in the states of Arizona, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming. In 1995, U S WEST reported total revenues of approximately $11.7 billion.

Continental is a Delaware corporation with its headquarters in Boston, Massachusetts. Continental is the third largest cable system operator in the nation. Continental owns cable systems located in and around St. Paul, Minnesota, as well as Twin Falls, Idaho

and Keokuk, Iowa.[1] Continental also has a partial interest in TCG. In 1995, Continental's total revenues were approximately $1.4 billion. TCG's 1995 revenues totaled approximately $184.9 million.

On February 27, 1996, U S WEST entered into an agreement to purchase all of the stock and assets of Continental for approximately $10.8 billion.[2] At the time the acquisition was announced, Continental owned 20% of TCG and held two seats on the TCG Board of Directors. Therefore, Continental reduced its share of TCG to 11% and relinquished its Board seats.

B. Sale of Dedicated Services

The complaint alleges that the provision of dedicated services in areas within Denver, Omaha, Phoenix and Seattle in which TCG has constructed facilities constitutes a line of commerce and section of the country, or relevant market, for antitrust purposes. Dedicated services include ''special access'' (the provision of dedicated lines carrying traffic from the premises of high-volume end-users to the end-user's long distance carrier, or between a given long distance carrier's points-of-presence (''POPs'')); and ''local private line services'' (dedicated lines connecting multiple locations of an end-user within a given metropolitan area).

Initially, dedicated services were provided only by the RBOCs, GTE and other local exchange carriers (''LECs''). The development of fiber optics and digital electronic technology as well as changes in regulation, has enabled new dedicated service providers to emerge. The first of these new dedicated service providers were designated ''competitive access providers'' (''CAPs'') by the FCC, because they provided the means for long distance carriers (such as AT&T, MCI and Sprint) and high-volume end-users (such as large and medium-size businesses) to bypass the monopoly LEC's facilities. The emergence of CAPs has generally resulted in lower rates and/or higher quality services in those areas in which CAPs have constructed their networks.

The complaint alleges that the provision of dedicated services are a relevant product market. There are no other economically comparable alternatives available to a dedicated services customer. A small, but significant non-transitory increase in the price of dedicated services would not cause enough customers to switch to other telecommunications services to make the price increase unprofitable. The complaint alleges the geographic markets are the areas within Denver, Omaha, Phoenix and Seattle in which TCG provides dedicated services. Dedicated services are local by definition. Consumers of dedicated services in a given metropolitan area cannot turn to providers of dedicated services that do not provide such services in that metropolitan area. Thus, consumers of dedicated services would not turn to dedicated services providers located outside of their area in response to a small, but significant non-transitory price increase for dedicated services in the given metropolitan area.

C. Anticompetitive Consequence of the Proposed Merger

The complaint alleges that U S WEST's proposed acquisition of Continental (which would result in U S WEST's acquisition of Continental's interest in TCG) would lessen competition substantially in the provision of dedicated services in the areas of Denver, Omaha, Phoenix and Settle in which TCG provides such services.

U S WEST is the dominant provider of dedicated services within the relevant geographic markets. An acquisition by U S WEST of Continental's interest in TCG in these markets would lessen competition between U S WEST and TCG, leading to higher prices and/or reduced quality. U S WEST's competitive strategy, including its pricing and output decisions, will be influenced by its partial ownership of a significant direct competitor. Because of its partial ownership of TCG, losses of customers to TCG would not be as detrimental to U S WEST, and it would have less incentive to lower prices or interest quality to meet the emerging competition from CAPs in these areas.

Additionally, as a Class B voting shareholder of TCG, U S WEST is entitled to receive advance and detailed notice of significant TCG business transactions, including TCG's plans for proprietary information strategically to raise the cost, increase the risk, and reduce the profitability of entry and extension by TCG, thereby limiting competitive entry and expansion that would serve to undermine U S WEST's dominance of these markets.

There are no effective substitutes for dedicated services. A price increase for dedicated services resulting from this acquisition would not be defeated by consumers' switching to other telecommunication services or providers of dedicated services located outside of the relevant geographic areas. Moreover, entry into the relevant markets sufficient to mitigate the competitive harm resulting from this acquisition is unlikely within the next two years.

For these reasons, the Department concludes that the merger as proposed would substantially lessen competition in the provision of dedicated services in areas within Denver, Omaha, Phoenix and Settle in which TCG provides dedicated services, and would result in increased rates and/or reduced quality for dedicated services in these areas, in violation of Section 7 of the Clayton Act.[3]

II. Explanation of the Proposed Final Judgment

The proposed Final Judgment would preserve competition in the sale of dedicated services in areas within Denver, Omaha, Phoenix and Seattle in which TCG provides dedicated services. It requires U S WEST to divest all of

[1] Continental also has a passive 34% interest in Insight Communications Company, LP, which owns cable systems located in Arizona and Utah.

[2] The deal was subsequently amended and revalued at $11.8 billion.

[3] TCG also competes directly with U S WEST in the provision of local exchange services in those areas in which TCG has the necessary facilities and in which it has been or has applied to become certified as a local exchange carrier, *e.g.,* Seattle. Because the proposed Final Judgment order U S WEST to divest all of the Common Stock of TCG it acquires from Continental, it remedies any other competitive harm resulting from U S WEST's partial ownership of TCG. Accordingly, it is unnecessary to determine whether the acquisition would lessen competition in violation of Section 7 of the Clayton Act in any other markets in which U S WEST competes with TCG.

In addition, the Memorandum Opinion and Order (the ''Order''), issued by the Federal Communications Commission (the ''FCC'') on October 18, 1996, requires U S WEST to divest Continental's wholly-owned cable systems located within U S WEST's telephone service area by August 15, 1997, and to divest Continental's passive, minority interest in the in-region systems owned by Insight Communications Company, LP by April 1, 1998. On October 24, 1996, the FCC issued another order clarifying that the wholly-owned systems which U S WEST is obligated to divest by August 15, 1997, include ''nine cable systems serving about 280,000 subscribers in and around St. Paul, Minnesota,'' which systems Continental acquired from Meredith-New Heritage Partnership after the U S WEST/Continental transaction was first entered into. These divestitures are required by Section 652(a) of the Communications Act of 1934, as amended, which prohibits any local exchange carrier from purchasing or otherwise acquiring ''directly or indirectly more than a 10% financial interest, or any management interest, in any cable operator providing cable service within the ''local exchange carrier's telephone service area.'' 47 U.S.C. § 572(a). Section 652 was enacted as part of the Telecommunications Act of 1996. The terms of the FCC's Order regarding the divestiture of the in-region systems obviates the need for the Department independently to determine whether the U S WEST/Continental transaction would violate Section 7 of the Clayton Act. The divestiture of the in-region systems by a date certain, pursuant to the Order, as amended, is substantially similar to the divestiture relief the Department would seek in the event the U S WEST/Continental transaction was deemed to violate the Clayton Act, and thus will prevent any lessening of competition that might have resulted from the transaction.

Continental's interest in TCG, a direct competitor of U S WEST, in a manner and over a period that will prevent short-term opportunities for anticompetitive behavior while also minimizing any disruption to TCG. The divestiture will help ensure that TCG will remain a strong competitor to U S WEST and that rates for dedicated services in areas within Denver, Omaha, Phoenix and Seattle in which TCG provides dedicated services do not increase as a result of the acquisition.

The proposed Final Judgment orders U S WEST, on or before June 30, 1997, to divest enough shares of TCG Common Stock sufficient to cause U S WEST to own less than 10% of the outstanding shares of TCG Common Stock. The proposed Final Judgment further orders U S WEST to divest any remaining shares of TCG Common Stock on or before December 31, 1998. If U S WEST does not divest the TCG Common Stock during the divestiture periods, the Court may appoint a trustee to sell the stock. If a trustee is appointed, the proposed Final Judgment provides that the defendants will pay all costs and expenses of the trustee and any professionals and agents retained by the trustee. The compensation paid to the trustee and any persons retained by the trustee shall be both reasonable in light of the value of the divestiture(s) and pursuant to a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture(s) and the speed with which it is accomplished. After appointment, the trustee will file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestiture(s) ordered under the proposed Final Judgment. If the trustee has not accomplished the divestiture(s) within six (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture(s), (2) the reasons, in the trustee's judgment, why the required divestiture(s) has not been accomplished, and (3) the trustee's recommendations. At the same time, the trustee will furnish such report to the parties, who will each have the right to be heard and to make additional recommendations consistent with the purpose of the trust.

The proposed Final Judgment requires U S WEST to treat the TCG interest as a passive investment, and to hold the TCG interest separate and apart from the activities and interests of U S WEST. The Judgment also prohibits defendants from appointing any members to or participating in meetings of the TCG Board of Directors and contains other provisions designed to bar U S WEST's access to highly sensitive TCG business information.

Finally, the proposed Final Judgment requires U S WEST to give the United States prior notice of any proposed divestiture(s), whether pursuant to a public or private sale, to insure that the divestiture(s) is made to an appropriate purchaser or purchasers and in a manner that will not harm TCG. If the plaintiff, in its sole judgment, objects to any purchaser(s) and/or the manner in which the divestiture is being carried out, the defendants shall not consummate the divestiture(s) unless approved by the Court.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The plaintiff and the defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the Federal Register. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the response of the United States will be filed with the Court and published in the Federal Register.

Written comments should be submitted to: Donald J. Russell, Chief, Telecommunications Task Force, Antitrust Division, United States Department of Justice, 555 4th Street, N.W., Room 8104, Washington, DC 20001.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The plaintiff considered, as an alternative to the proposed Final Judgment, a full trial on the merits of its complaint against defendants. The plaintiff is satisfied, however, that the divestiture of the TCG Common Stock and other relief contained in the proposed Final Judgment will preserve viable competition in the provision of dedicated services in areas within Denver, Omaha, Phoenix and Seattle in which TCG provides dedicated services. Thus, the proposed Final Judgment would achieve the relief the government would have obtained through litigation, but avoids the time, expense and uncertainty of a full trial on the merits of the complaint.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty (60) day comment period, after which the court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' In making that determination, the court *may* consider—

(1) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other considerations bearing upon the adequacy of such judgment;

(2) the impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. § 16(e) (emphasis added). As the United States Court of Appeals for the D.C. Circuit recently held, this statute permits a court to consider, among other things, the relationship between the remedy secured and the

specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft,* 56 F.3d 1448, 1461–62 (D.C. Cir. 1995).

In conducting this inquiry, ''[t]he Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' [4] Rather,

[a]bsent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.,* 1977–1 Trade Cas. ¶ 61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988), *citing United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir.), *cert. denied,* 454 U.S. 1083 (1981); see also *Microsoft,* 56 F.3d at 1460–62. Precedent requires that

the balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''within the reaches of the public interest.'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.[5]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' [6]

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Respectfully submitted,

Donald J. Russell,

Chief, Telecommunications Task Force, U.S. Department of Justice, Antitrust Division, 555 4th Street, NW., Room 8104, Washington, DC 20001, (202) 514–5621.

Dated: November 5, 1996.

[FR Doc. 96–29320 Filed 11–15–96; 8:45 am]

BILLING CODE 4410–01–M

Federal Bureau of Investigation

RIN 1105–AA39

Agency Information Collection Activities: Proposed Collection; Comments Requested

AGENCY: Federal Bureau of Investigation, DOJ.

ACTION: Correction.

In notice document 96–28703, beginning on page 57901, in the issue of Friday, November 8, 1996, make the following corrections:

On page 57901, in the first paragraph of the notice, ''April 10, 1996'' should read ''May 10, 1996.''

On page 57901, in the second paragraph of the notice, ''January 7, 1996'' should read ''December 8, 1996.''

Dated: November 14, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–29574 Filed 11–15–96; 8:45 am]

BILLING CODE 4410–02–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–489 AND 50–499]

Houston Lighting and Power Company; City Public Service Board of San Antonio; Central Power and Light Company; City of Austin, Texas and South Texas Project, Units 1 and 2; Environmental Absessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering approval under 10 CFR 50.80 of the transfer of Facility Operating License Nos. NPF–76 and NPF–80, issued to Houston Lighting & Power Company, et al., (HL&P, the licensee) with respect to operating authority thereunder for the South Texas Project, located in Matagorda County, Texas, and considering issuance of conforming amendments under 10 CFR 50.90.

Environmental Assessment

Identification of the Proposed Action

The proposed action would approve the transfer of operating authority under the licenses to a new operating company to allow it to use and operate South Texas Project Units 1 and 2 (STP) and to possess and use related licensed nuclear materials in accordance with the same conditions and authorizations included in the current operating licenses. The proposed action would also approve issuance of license amendments reflecting the transfer of operating authority. The operating company would be formed by the owners to become the licensed operator for STP and would have exclusive control over the operation and maintenance of the facility.

Under the proposed arrangement, ownership of STP will remain unchanged with each owner retaining its current ownership interest. The new operating company will not own any portion of STP. Likewise, the owners' entitlement to capacity and energy from STP will not be affected by the proposed change in operating responsibility for STP from HL&P to the new operating company. The owners will continue to provide all funds for the operation, maintenance, and decommissioning by the operating company of STP. The

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[4] 119 Cong. Rec. 24598 (1973). See *United States* v. *Gillette Co.,* 406 F. Supp. 713, 715 (D. Mass. 1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. § 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. Rep. 93–1463, 93rd Cong. 2d Sess. 8–9 (1974), reprinted in U.S.C.C.A.N. 6535, 6538.

[5] Bechtel, 648 F.2d at 666 (emphasis added); see *BNS,* 858 F.2d at 463; *United States* v. *National Broadcasting Co.,* 449 F. Supp. 1127, 1143 (C.D. Cal. 1978), *Gillette,* 406 F. Supp. at 716. See also *Microsoft,* 56 F.3d at 1461 (whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

[6] *United States* v. *American Tel. and Tel Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982), aff'd sub nom., *Maryland* v. *United States,* 460 U.S. 1001 (1983), quoting *Gillette Co.,* 406 F. Supp. at 716, *United States* v. *Alcan Aluminum, Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985).

responsibility of the owners will include funding for any emergency situations that might arise at STP.

The proposed action is in accordance with the licensee's application dated August 23, 1996, as supplemented by letters dated October 1 and 15, 1996, for approval of transfer of licenses and conforming amendments.

Need for the Proposed Action

The proposed action is needed to enable HL&P to transfer operating authority to an operating company as discussed above. HL&P has submitted that this will enable it to enhance the already high level of public safety, operational efficiency, and cost-effective operations at STP.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there will be no physical or operational changes to STP. The technical qualifications of the new operating company to carry out its responsibilities under the Operating Licenses for STP, as amended, will be equivalent to the present technical qualifications of HL&P. The operating company will assume responsibility for, and control over, operation and maintenance of the facility. The present plant organization, the oversight organizations, and the engineering and support organizations will be transferred essentially intact from HL&P to the new operating company. The technical qualifications of the proposed operating company organization, therefore, will be at least equivalent to those of the existing organization.

The Commission has evaluated the environmental impact of the proposed action and has determined that the probability or consequences of accidents would not be increased and that post-accident radiological releases would not be greater than previously determined. Further, the Commission has determined that the proposed action would not affect routine radiological plant effluents and would not increase occupational radiological exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action would not affect nonradiological plant effluents and would have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternative with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are identical.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the ''Final Environmental Statement related to the operation of South Texas Project, Units 1 and 2,'' dated August 1986.

Agencies and Persons Contacted

In accordance with its stated policy, on October 17, 1996, the staff consulted with the Texas State official, Arthur C. Tate, of the Bureau of Radiation Control, Texas Department of Health, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated August 23, 1996, as supplemented by letters dated October 1 and 15, 1996, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488.

Dated at Rockville, Maryland, this 8th day of November 1996.

For the Nuclear Regulatory Commission.

Thomas W. Alexion,

Project Manager, Project Directorate IV–1, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 96–29460 Filed 11–15–96; 8:45 am]

BILLING CODE 7590–01–P

All Nuclear Power Plants; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has taken action with regard to a Petition dated March 5, 1996, by Mr. C. Morris. The Petition pertains to all operating nuclear power plants.

In the Petition, the Petitioner requested that the operating licenses of all nuclear power plants be suspended within 90 days and remain suspended until such time as the licensees of those plants discovered the reason for what the Petitioner asserts are repeated errors in the undervoltage relay (UVR) setpoints (SPs) and electrical distribution system (EDS) designs and provided convincing evidence that these deficiencies had finally been corrected. Since the Petitioner had requested action within 90 days, the request was treated as a request for immediate relief. The Petitioner also requested that the aforementioned evidence be reviewed by a competent third party, in addition to the staff of the U.S. Nuclear Regulatory Commission (NRC), and that if the NRC concludes that plants may safely operate with UVRs that cannot be properly set for long periods, the NRC should reach these conclusions by way of a public meeting.

The Director of the Office of Nuclear Reactor Regulation has denied the Petition. The reasons for this denial are explained in the ''Director's Decision Under 10 CFR 2.206'' (DD–96–12), the complete text of which follows this notice and is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

A copy of the decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided by this regulation, the decision will constitute the final action of the Commission 25 days after issuance unless the Commission, on its own motion, institutes review of the decision in that time.

Dated at Rockville, Maryland, this 26th day of September 1996.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

Director's Decision Under 10 CFR 2.206

I. Introduction

On March 5, 1996, Mr. Charles Morris (Petitioner) filed a Petition with the Executive Director for Operations pursuant to Section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR 2.206). The Petitioner requested that the operating licenses of all nuclear power plants be suspended within 90 days and remain suspended until such time as those plants have (1) discovered the reason for what the Petitioner asserts are repeated errors in the undervoltage relay (UVR) setpoints (SPs) and electrical distribution system (EDS) designs and (2) provided convincing evidence that these deficiencies have finally been corrected. Since the Petitioner had requested action within 90 days, the request was treated as a request for immediate relief. The Petitioner also requested that the aforementioned evidence by reviewed by a competent third party, in addition to the Nuclear Regulatory Commission (NRC) staff, and that if the NRC concludes that plants may safely operate with UVRs that cannot be properly set for long periods of time, the NRC should reach these conclusions by way of a public meeting.

On April 17, 1996, the Petitioner was informed that the request for the suspension of all nuclear power plant licenses within 90 days for the purposes of remedying repeated errors in UVR SPs and EDS designs was denied because licensees have, to a large degree, already addressed the issues which the Petitioner had raised. Also the Petitioner was informed that the request was being evaluated pursuant to 10 CFR 2.206 of the NRC's regulations and that a decision, as provided by 10 CFR 2.206, would be made on the request within a reasonable time.

On the basis of my review of the issues raised by the Petitioner as discussed below, I have conclude that no substantial health and safety issues have been raised that would require the initiation of the action requested by the Petitioner.

II. Discussion

In his Petition, the Petitioner stated his concern that the ''enduring and widespread nature of the electrical distribution system (EDS) an undervoltage rely (UVR) setpoint (SP) errors (e.g., incorrect UVR and thermal overload setpoints) was recognized by neither the licensees nor the NRC staff,'' and was not included in NRC Information Notice (IN) 93–99, ''Undervoltage Relay and Thermal Overload Setpoint Problems.''

IN 93–99 did, in fact, inform all holders of operating licenses or contruction permits of the widespread nature of the setpoint errors by listing approximately 40 licensees with incorrectly set UVRs or thermal overload (TOL) protective devices. The identification of these problems was not inadvertent, but was the result of concerted NRC staff attention to these issues. As was indicated to the Petitioner in an April 17, 1996, letter acknowledging receipt of his March 5, 1996, 10 CFR 2.206 Petition, the Petitioner himself recognized that Electrical Distribution System Functional Inspections (EDSFIs) were highlighting these issues and that licensees were conducting self-initiated design basis reviews (possibly in anticipation of pending EDSFIs) to identify problems and were undertaking corrective actions.

In his March 5, 1996, Petition, the Petitioner listed seven specific reasons that he believed caused repeated EDS and UVR deficiencies. The following is a description of each concern accompanied by the NRC staff's response:

1. The Petitioner stated that NRC Branch Technical Position PSB–1, ''Adequacy of Station Electric Distribution System Voltages,'' contained in NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants,'' which requires a degraded voltage relay with a long delay and a loss of power relay with a short delay, is inadequate because it does not recognize the complexity of the matter. Except for the arbitrary time delays associated with the UVRs, no recognition has been made of voltage dynamics and time dependence. Signal bandwidths, responses of tap changing transformers, and UVR time delays have been overlooked and should be considered.

Response

NRC Branch Technical Position PSB–1 does not recommend that licensees arbitrarily select time delays for UVRs. On the contrary, PSB–1 states that ''the selection of undervoltage and time delay setpoints shall be determined from an analysis of the voltage requirements of the Class 1E loads at all onsite system distributions levels.'' Further, it states that ''Tap settings selected should be based on an analysis of the voltage at the terminals of the Class 1E loads. The analyses performed to determine minimum operating voltages should typically consider maximum unit steady state and transient loads * * *'' Additionally, ''the first time delay should be of a duration that established the existence of a sustained degraded voltage condition (i.e., something longer than a motor starting transient)'' and ''the second time delay should be of a limited duration such that the permanently connected Class 1E loads will not be damaged.''

Therefore, the staff concludes the NRC Branch Technical Position PSB–1 is adequate as it addresses those topics which the Petitioner believes are neglected by the Branch Technical Position.

2. The Petitioner asserted that UVR tolerances are statistical in nature and not, as the staff and design engineers often regard them,limits to the errors in the relay setpoints. This is a significant problem which may not be solved if previous approaches are utilized and decision analysis is not applied to study the consequences of attempting to prevent the occasional loss of the most vulnerable safety load at the expense of transferring a complete division to another power source with attendant problems.

Response

Regulatory Guide 1.105, ''Instrument Setpoints for Safety-Related Systems,'' states that ISA–S67.04–1982, ''Setpoints for Nuclear Safety-Related Instrumentation Used in Nuclear Power Plants,'' establishes NRC staff guidance for ensuring that instrument setpoints in safety-related systems are initially within and remain within the technical specification limits. Section 4.3.1 of ISA–S67.04 states that instrument accuracies (uncertainties, errors or tolerances) may be combined in one of five ways: algebraically, square root of the sum of the squares, statistically, probabilistically, or combinations of the first four. Justification is to be provided for the method used.

Regulatory Guide 1.105 expands upon this point:

> Paragraph 4.3 of the standard specifies the methods for combining uncertainties is determining a trip setpoint and its allowable values. Typically, the NRC staff has accepted 95% as a probability limit for errors. That is, of the observed distribution of values for a particular error component in the empirical data base, 95% of the data points will be bounded by the value selected. If the data base follows a normal distribution, this corresponds to an error distribution approximately equal to a ''two sigma'' value.

Although the use of ''two sigma'' values (value equal to twice the standard deviation of the errors) does

not completely ensure that the measured parameter will not exceed the safety analysis limit without accompanying protective action, the probability of all the individual error occurring simultaneously at this extreme, non-conservative, random values is very low. Therefore, the regulatory guide and the industry standard together support a credible, statistical approach for establishing setpoints that considers such things as sample size of error values, random versus non-random errors, and independence of errors.

The preparatory training for EDSFI team members also did not overlook the statistical nature of the UVR tolerances. In Section 4.8.2 of the EDSFI training textbook, a discussion of instrumentation setpoint problems was provided with a sample application of ISA–S67.04 to degraded voltage relays. This methodology was also discussed in the course itself. Using this knowledge EDFSIs were conducted and findings were written covering improper degraded voltage relay setpoints. As a result, licensees then followed this action with event notification and other activities as described in Information Notice 93–99.

Additionally, in response to a request from Region III pertaining to an unanalyzed degraded voltage concern at Perry Nuclear Power Plant, the Electrical Engineering Branch (EELB) of NRR in an April 13, 1992, memo provided inspectors in NRC Regional Offices with guidance for establishing an adequate setpoint for the degrade voltage relays by way of reference to Section 4.8.2 of the EDSFI training course manual and Regulatory Guide 1.105. Furthermore, the staff informed all holders of operating licenses about a statistical approach for establishment of UVR setpoints when 91–29, ''Deficiencies Identified during Electrical Distribution Functional Inspections,'' made reference to ISA–S67–04–1982 for useful guidance in determination of setpoints.

The staff therefore has regarded the UVR setpoint determinations as statistical in nature.

3. The Petitioner stated that although General Design Criterion (GDC) 17, ''Electric power systems,'' requires all EDS to be testable, only parts are tested because plants cannot conveniently be placed in a condition where actual loads can be placed on the EDS and measured.

Response

The staff has already been aware that in certain situations it is not practical nor safe to test each and every component in the exact way it is used. General Design Criterion 18, ''Inspection and testing of electrical power system,'' states that ''systems shall be designed with a capability to test periodically * * * the operability of the systems as a whole and, under conditions as close to design as practical * * *.'' Regulatory Guide 1.118, ''Periodic Testing of Electric Power and Protection Systems,'' Revision 2, endorses, IEEE Std 338–1977, ''Criteria for the Periodic Testing of Nuclear Power Generating Station Safety Systems,'' which states that ''the test program of each system shall be designed to provide for interference with related operational channels, systems, or equipment.'' It further states that ''wherever possible, tests shall be accomplished under actual or simulated operating conditions, including sequence of operations, for example, diesel load sequencing,'' but also

> Where it is not practicable to initiate the protective action, the system shall be designed such that * * * Designs * * * shall be justified on the basis that there is no practical system design that would permit operation of the actuated equipment without adversely affecting the safety or operability of the plant, and that the probability of failure of actuated equipment not tested during plant operation is acceptably low, and that the actuated equipment can be routinely tested when the plant is shut down.

It is the staff's goal to have all components of the EDS periodically tested in a manner that is both reasonable and practical. Various practical test methods such as the use of miniflow paths, overlap testing, simulated loads, etc. have been found acceptable by the staff.

NRC Temporary Instruction 2515/107 (which provided guidance for performing EDSFIs) required the EDSFI teams to ''verify that the surveillance and test procedures are adequate to demonstrate the functionality of the equipment or system being tested or the design assumptions being verified.''

Therefore, as shown above, testing of the EDS is evaluated in terms of satisfying NRC requirements (GDC–17 and GDC–18) utilizing the guidance provided by Regulatory Guide 1.118 for a reasonable and practical approach (in lieu of testing each system as a whole), and tests are properly implemented in the manner described above.

4. The Petitioner pointed out that load nameplate ratings are used in voltage analyses even when common knowledge shows that most loads are operated at a fraction of their ratings. Furthermore, worst-case ambient temperatures are used to select motor protection time delays even though few loads, if any, see those conditions except during a loss-of-coolant accident when the motor protection is bypassed. Additionally, UVR output delays are treated as known quantities, when the protection of loads by time delays and inverse time over current relays is a crude mitigating approach. As a related matter, the Petitioner objects to the inconsistent use of significant figures to represent EDS and UVR SP parameters.

Response

The aforementioned temporary institution (TI) for the EDSFIs stated that the inspectors should verify that values for mechanical loads used for electrical calculations are based on actual system operating points during both normal and accident conditions. The staff expects licenses to perform accurate, conservative, and bounding calculations involving worst-case estimates for parameters such as ambient temperatures and loads. The licensees' analyses are reviewed by the staff utilizing engineering judgment and applicable industry guidance to ensure that reasonable, yet adequately safe solutions are provided.

It is true that, occasionally, designs proposed by licensees do involve basic approaches (such as inverse time delay relays) and that some calculations performed by licensees involve the use of ultra-precise numerical values. What the staff does require is that the designs utilized by licensees meet applicable NRC regulations and that adequate protection of public health and safety is ensured.

The staff, therefore, concludes that component characteristics are treated and utilized properly in calculations that support EDS and UVR designs.

5. The Petitioner believed that when licensees have discovered that UVR SPs are set too low, the typical response has been to raise the setpoints. This, in turn, reduces the safety advantage of providing UVRs for the EDS due to more frequent and unnecessary UVR actuations accompanied by possible undesirable power systems transfers.

Response

In a letter dated August 8, 1979, addressed to all power reactor licensees regarding the adequacy of station electric distribution systems voltages, the staff stated that:

> Protection of safety loads from undervoltage conditions must be deigned to provide the required protection without causing voltages in excess of maximum voltage ratings of safety loads and without causing spurious separations of safety buses from offsite power.

Moreover,

Voltage-time settings for undervoltage relays shall be selected so as to avoid spurious separation of safety buses from offsite power during plant startup, normal operation and shutdown due to startup and/or operation of electric loads.

NRC Branch Technical Position PSB–1 states that:

* * *imporper (sic) voltage protection logic can itself cause adverse effects on the Class 1E systems and equipment such as * * * spurious separation of Class 1E systems from offsite power due to normal motor starting transients.

Additionally, in IN 95–37, ''Inadequate Offsite Power System Voltages during Design-Basis Events,'' the staff informed power reactor licensees that although raising UVR setpoints ensures that adequate voltages exist at equipment input terminals, the higher setpoints also increase the potential for separation from the offsite power system during design-basis events over the range of normally anticipated offsite grid voltages.

In a more specific example, a February 23, 1995, staff safety evaluation of the degraded voltage design for the Edwin I. Hatch Nuclear Plant, determined that combination of automatic and manual actions was an acceptable alternative approach to meet the branch technical position in lieu of raising the degraded voltage setpoints which could lead to unwanted plant trips. That safety evaluation and the above staff guidance provide evidence that the staff has considered avoidance of spurious bus trips as one objective to be considered when selecting an adequate setpoint of UVRs.

The staff, therefore, has repeatedly and in detail both considered the determental effects of raising the UVR setpoints and communicated its concerns to licensees.

6. The Petitioner stated that in IN 95–05, ''Undervoltage Protection Relay Settings Out of Tolerance Due to Test Equipment Harmonics,'' the staff discovered the peak reading voltmeters calibrated for root-mean-square (RMS) are affected by the proportions of harmonics in the AC bus voltages and in the calibrators used to set the UVRs. Additionally, the harmonics affect the UVR responses by changing their setpoints when the harmonic content of the bus voltage changes.

Response

IN 95–05 discusses three occurrences, reported by licensees, where harmonics in the output voltage of the power supplies used during testing and calibration of UVRs resulted in the relay setpoints being out of tolerance. The setpoint errors were also affected by the use of digital voltmeters which do not respond to the harmonic content of the test input voltage as do the UVRs. The purpose of the IN was to inform all operating power plant licensees that harmonics in the voltage inputs (test source voltage or normal bus voltage) to the UVRs impact the actual operating points of those relays, as the Petitioner believes, and to instruct the licensees to take appropriate action (i.e., install filters, adjust setpoints, select proper test equipment, etc.) to ensure that UVR setpoints are adequate.

The staff, therefore, has addressed this concern and brought it to the attention of licensees who are taking appropriate action as discussed above.

7. The Petitioner concluded that impedances and inrush currents to motors and other loads are not known to the precision with which the staff and the licensees' engineers have been trying to set UVRs. Both groups must recognize that their task may be impossible and that their attempts to do so have increased the risk of a nuclear accident.

Response

Branch Technical Position PSB–1 states that voltage analyses (including effects of impedances and inrush currents) should be performed with analytical techniques and assumptions verified by actual measurement. It also states that, in general, test results should not be more than 3% lower than the analytical results. This level of precision has been determined to be acceptable based on engineering judgment.

Furthermore, as stated in the response to the Petitioner's fourth concern, even though licensee propose solutions involving different equipment and unique, precise calculations (which should be supported by actual test data as mentioned above), staff reviews are conducted utilizing both guidance from Branch Technical Position PSB–1 and engineering judgment to ensure that all applicable regulations are met and that adequate protection of public health and safety is ensured. This approach provides reasonable assurance that the level of risk of a nuclear accident is not increased and remains acceptable.

Choosing a setpoint above an analytical limit based on minimum voltage requirements and below nominal votage ranges while accounting for instrumentation errors and analytical inaccuracies is often a challenge which leads licensees to use more precise equipment and more precise calculations. It is concerns such as these that have led the staff to consider alternative approaches to its position on degraded voltage protection on a plant-specific basis as noted above in the staff's response to the Petitioner's fifth concern.

Therefore, although the staff has concluded that the task is not impossible, it has recognized alternative approaches that address degraded voltage concerns without increasing the risk of an accident.

To continue the discussion, identification of problems with UVRs and EDSs was not inadvertent. The NRC staff had undertaken more global measures to ensure that concerns such as those raised by the Petitioner were addressed satisfactorily. Because previous NRC inspection teams had observed that the required functional capabilities of certain safety-related systems (including EDSs) were compromised due to a lack of proper engineering support and the introduction of various design deficiencies, EDFSIs were scheduled to be conducted for all operating plants beginning with pilot inspections in 1989. NRC Temporary Instruction (TI) 2515/107 was issued on October 19, 1990, to be made part of the NRC Inspection Manual. That TI stated that calculations to establish protective relay setpoints had not been initially performed or were not updated to reflect setpoint changes and plant modifications. These failures constituted some of the deficiencies that had been encountered by previous inspection teams. The TI stated, with regard to those concerns voiced by the Petitioner, that the forthcoming inspections should verify:

- That ratings and setpoints have been correctly chosen and controlled for protective and control relays and circuit breakers to assure proper coordination, protection, required automatic action, and annunciation.
- The adequacy of the load study, voltage profiles, voltage drop calculations, motor starting study, load shedding, engineered safety features (ESF) bus load sequencing and overload trip settings for ESF loads including consideration of steady-state and accident-transient loads and consideration of acceleration of the loads during degraded voltage conditions that may occur during various modes of plant operation and accident mitigation scenarios.
- The adequacy of short circuit calculations, design of protective relay logic and relay setting calculations, grounding calculations and schemes, and protective device coordination studies.
- That setpoints for overcurrent protective relays are correctly chosen (1) to assure proper breaker coordination

between different voltage levels; (2) to prevent exceeding the vendor-specified thermal limits on motors, containment electrical penetrations and cable insulation systems; (3) to allow starting of electrical equipment under degraded voltage conditions; and (4) to provide adequate pre-trip alarms, when applicable.

- The adequacy of setpoints and time delays for other protective relays for attributes such as undervoltage, underfrequency, reverse power, ground faults, differential current, thermal overload and phase synchronization to assure functionality of the EDS.
- That mechanical loads, such as pump horsepower, correspond to actual system operating points during normal and accident conditions and have been correctly translated to electrical loads and incorporated in the electrical load list as appropriate.
- That surveillance and test procedures are adequate to demonstrate the functionality of the equipment or system being tested or the design assumptions being verified.

NRC inspectors (including NRC contractors) assigned to the EDSFI teams attended a week-long course (held in September and December 1990) to enhance their knowledge of EDSs, the TI and related requirements. Using the guidance provided by the TI and the EDSFI training course, the EDSFI teams then conducted inspections of the EDSs through early 1994 at most operating nuclear power plants. As a result, numerous deficiencies were identified and documented in plant-specific EDSFI inspection reports, and corrective actions were taken. Those corrective actions were subsequently evaluated, found acceptable by the staff and documented in follow-up inspection reports. Many of these deficiencies and corrective actions were listed in IN 93–99 and include incorrect UVR relay and thermal overload setpoints caused by design errors, as well as other points raised by the Petitioner.

In summary, as stated in my April 17, 1996, letter, I believe the NRC staff recognized the existence of repeated errors and widespread EDS design deficiencies, including those associated with UVR SPs, took appropriate actions (conducted EDSFIs, identified deficiencies, required corrective actions) based on those observations, and made all licenses aware of typical design deficiencies encountered during EDSFIs and licensees' self-initiated efforts by issuing INs such as IN 91–29, ''Deficiencies Identified During Electrical Distribution System Functional Inspections,'' its supplements, and IN 93–99. Additionally, the staff has continued to inform power reactor licensees of other design deficiencies when they are encountered (e.g., IN 95–37 which discusses UVR setpoints in relationship to inadequate offsite power system voltages during design-basis events) and will continue to do so in the future when necessary. Such action by the staff is appropriate to address repeated errors in UVR setpoints and EDS designs and to provide reasonable assurance of adequate protection of public health and safety.

III. Conclusion

The institution of proceedings pursuant to 10 CFR 2.206 is appropriate only if substantial health and safety issues have been raised. See *Consolidated Edison Co. of New York* (Indian Point Units 1, 2, and 3) CLI–75–8, 2 NRC 173, 175 (1975) and *Washington Public Power Supply System* (WPPSS Nuclear Project No. 2) DD–84–7, 19 NRC 899, 924 (1984). This is the standard that has been applied to the concerns raised by the Petitioner to determine whether the action requested by the Petitioner, or enforcement action, is warranted.

On the basis of the preceding assessment, I have concluded that no substantial health and safety issues have been raised by the Petitioner that would warrant the action requested by the Petitioner. I further conclude that the Petitioner's concerns have been adequately addressed by the staff and that there is no need for a third party review. Additionally, with regard to plants with UVRs that cannot be properly set, the staff has shown in plant-specific evaluations, such as described above, that other alternative designs are acceptable.

The Petitioner's request for action pursuant to 10 CFR 2.206 is denied. As provided for in 10 CFR 2.206(c), a copy of the decision will be filed with the Secretary of the Commission for the Commission's review. The decision will constitute the final action of the Commission 25 days after issuance unless the Commission, on its own motion, institutes review of the decision in that time.

Dated at Rockville, Maryland, this 26 day of September, 1996.

For the Nuclear Regulatory Commission.

William T. Russell,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 96–29459 Filed 11–15–96; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Budget Analysis Branch; Sequestration Update Report

AGENCY: Office of Management and Budget—Budget Analysis Branch.

ACTION: Notice of transmittal of final sequestration report to the President and Congress.

SUMMARY: Pursuant to Section 254(b) of the Balanced Budget and Emergency Control Act of 1985, as amended, the Office of Management and Budget hereby reports that it has submitted its Final Sequestration Report to the President, the Speaker of the House of Representatives, and the President of the Senate.

FOR FURTHER INFORMATION CONTACT: Ellen Balis, Budget Analysis Branch—202/395–4574.

Dated: November 13, 1996.

John B. Arthur,

Associate Director for Administration.

[FR Doc. 96–29599 Filed 11–14–96; 2:30 pm]

BILLING CODE 3110–01–P

POSTAL SERVICE

Board of Governors; Amendment to Closed Sunshine Act Meeting Agenda

''FEDERAL REGISTER'' CITATION OF PREVIOUS ANNOUNCEMENT: 61 FR 54245, October 17, 1996, and 61 FR 56576, November 1, 1996.

PREVIOUSLY ANNOUNCED DATE OF MEETING: November 4, 1996.

CHANGE: Addition of the following item to the closed meeting agenda:

1. Consideration of Exercising the Board's Reserved Approval Authority With Respect to Performance of a Prototype for the Tray Management Systems.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Koerber, (202) 268–4800.

At its meeting on November 4, 1996, the Board of Governors of the United States Postal Service voted unanimously to add to the agenda, ''consideration of exercising the Board's reserved approval authority with respect to performance of a prototype for the tray management systems,'' and that discussion on the item was closed to the public pursuant to section 552b(c)(9)(B) of title, 5, United States Code; and § 7.3(i) of title 39, Code of Federal Regulations, and that no earlier announcement was possible.

In accordance with section 552b(f)(1) of title 5, United States Code, and § 7.6(a) of title 39, Code of Federal

Regulations, the General Counsel of the United States Postal Service has certified that in her opinion the meeting was properly closed to public observation, pursuant to section 552b(c)(9)(B) of Title 5, United States Code; and § 7.3(i) of Title 39, Code of Federal Regulations.

Thomas J. Koerber,

Secretary.

[FR Doc. 96–29562 Filed 11–14–96; 8:45 am]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension: Rule 18f–3—SEC File No. 270–385—OMB Control No. 3235–0441

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is publishing for public comment the following summary of previously approved information collection requirements.

Rule 18f–3 permits any registered open-end management investment company that satisfies its conditions to issue multiple classes of shares representing interests in the same portfolio of securities but having different arrangements for shareholder services, distribution, or both. Rule 18f–3 requires, among other things, that a multiple class fund adopt a written plan setting forth the different class arrangements. The Commission estimates that approximately 600 investment companies use rule 18f–3 and that the annual paperwork burden is approximately one hour per respondent, for a total of about 600 burden hours.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study.

Written comments are requested on: (a) whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burdens of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 20549.

Dated: November 7, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–29440 Filed 11–15–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 22326; 811–3787; 811–7526]

Bando McGlocklin Capital Corporation and Bando McGlocklin Small Business Investment Corporation; Notice of Applications

November 12, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of applications for orders under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: Bando McGlocklin Capital Corporation, file no. 811–3787 (''BMCC'') and Bando McGlocklin Small Business Investment Corporation, file no. 811–7526 (''BMSBIC'').

RELEVANT ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATIONS: Applicants seek an order declaring that each has ceased to be an investment company.

FILING DATES: The applications were filed on August 7, 1996 and amended on October 17, 1996 and November 8, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the applications will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 16, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 13555 Bishops Court, Brookfield, Wisconsin 53005.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Senior Staff Attorney, at (202) 942–0572, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Applicants are closed-end management investment companies that are organized as corporations under the laws of Wisconsin. BMCC registered under the Act on Form N–5 on June 29, 1983 and filed an initial registration statement under the Securities Act of 1933 on March 27, 1987, which became effective on May 13, 1987. BMSBIC registered under the Act on Form N–5 on February 27, 1993. BMCC, directly and through its wholly-owned subsidiaries, BMSBIC and Bando McGlocklin Small Business Lending Corporation (''BMSBLC''), provides long-term secured loans (primarily first mortgage) to finance the growth, expansion, and modernization of small businesses.

2. Prior to March 26, 1993, BMCC operated as a small business investment company (''SBIC'') licensed under the Small Business Investment Act of 1958 (''SBIA''). On March 26, 1993, BMCC completed the formation of a holding company by transferring substantially all of its assets (including its license to operate as an SBIC) and liabilities to BMSBIC. On May 5, 1993, BMCC formed Bando McGlocklin Investment Company as a wholly-owned subsidiary and transferred a partially developed real estate parcel to it at fair value. On March 3, 1994, BMCC formed BMSBLC. On June 13, 1994, BMSBLC registered as a closed-end management investment company under the Act. BMSBLC makes loans to small business concerns qualifying under the SBA section 7(a) loan guarantee program. In connection with establishing BMCC's holding company structure, applicants received several orders from the SEC (the ''Orders'').[1]

[1] Investment Company Act Release Nos. 20261 (Apr. 29, 1994) (notice) and 20317 (May 25, 1994) (order) (order amending prior orders permitting BMCC to establish BMSBLC as a wholly-owned subsidiary); 19584 (July 21, 1993) (notice) and 19636 (Aug. 17, 1993) (order) (order amending

3. Applicants' fundamental investment policies state that, among other things, each is permitted to operate as a closed-end management investment company and to engage in the business of purchasing or selling real estate and real estate mortgage loans. BMCC conducts most of its business through BMSBIC which, as an SBIC registered under the SBIA, is subject to the supervision and regulation of the United States Small Business Administration (''SBA'').

4. Due to changes in SBA regulations, BMSBIC has decided that it is impracticable for it to borrow from the SBA. Therefore, BMSBIC intends to surrender its license as an SBIC and applicants have filed to deregister under the Act. After deregistration, BMCC and BMSBIC intend to rely on the exemptions provided by sections 3(c)(6) and 3(c)(5)(C) of the Act, respectively, and operate as real estate investment trusts (''REITs'') pursuant to section 856 of the Internal Revenue Code of 1986, as amended. In addition, BMCC intends to liquidate BMSBLC and deregister it under the Act.

5. After it receives the requested order, BMCC intends to acquire 90.9% of the non-voting stock of a new Wisconsin chartered bank which will be located in Pewaukee, Wisconsin (the ''Bank''). BMCC intends to purchase only non-voting stock of the Bank so that it will qualify as a REIT under the Internal Revenue Code.

Applicants' Legal Analysis

1. Section 8(f) of the Act provides that whenever the SEC finds that a registered investment company has ceased to be an investment company it shall declare by order that the registration of such company will cease to be in effect. Section 3(c)(6) of the Act excludes from the definition of investment company any company engaged, directly or through majority-owned subsidiaries, in one or more of the businesses described in subparagraphs (A), (B), or (C) of section 3(c)(5), or in one or more of such businesses (from which not less than 25% of such company's gross income during its last fiscal year was derived) together with an additional business or businesses other than investing, reinvesting, owning, holding, or trading in securities. Section 3(c)(5)(C) excludes from the definition of investment company any person who is not engaged in the business of issuing redeemable securities, face-amount certificates of the installment type, or periodic payment plan certificates and who is primarily engaged in the business of ''purchasing or otherwise acquiring mortgages or other liens on and interests in real estate.''

2. Once it is no longer an SBIC, BMSBIC will no longer be able to rely on the exemption provided by section 18(k) of the Act, which exempts SBICs from the leverage restrictions of sections 18(a)(1) (A) and (B) of the Act. Without the exemption provided by section 18(k), BMSBIC would be in immediate violation of section 18(a)(1) (A) and (B) and would not be able to meet such leverage restrictions in the future. Therefore, BMSBIC has decided to deregister under the Act.

3. BMSBIC states that it is not an investment company pursuant to section 3(c)(5)(C) because it is primarily engaged in the business of purchasing or otherwise acquiring mortgages or other liens on and interests in real estate. Applicants represent that as long as BMSBIC relies on section 3(c)(5)(C), BMSBIC will meet criteria established by the SEC or its staff by rule, release, letter, or otherwise with regard to section 3(c)(5)(C).

4. Once BMSBIC is deregistered, BMCC states that it believes that it will be excepted from the definition of ''investment company'' by virtue of section 3(c)(6) because it will be primarily engaged, directly and through wholly-owned subsidiaries, in the business of purchasing or otherwise acquiring mortgages and other liens on interests in real estate within the meaning of section 3(c)(5)(C). Further, BMCC submits that its planned acquisition of the Bank will not affect its status under section 3(c)(6).[2] Therefore, BMCC seeks an order declaring that it no longer is an investment company under the Act.

5. Applicants' boards of directors have determined that it is in the best interests of applicants and their shareholders for applicants to deregister as investment companies. Applicants' boards of directors met six times during 1996 to consider the proposal to deregister applicants. In their deliberations, the boards considered the advantage of forming the Bank as a source of funds and the disadvantages of applicants being registered under the Act, in particular the difficulty of managing operating companies (rather than pooled investment entities) in compliance with the Act.

6. Applicants believe that deregistering from the Act will afford them significant benefits and flexibility. In addition, BMCC states that after it is deregistered under the Act, BMCC will continue to be a publicly-held company and subject to the reporting and other requirements of the Securities Exchange Act of 1934 (the ''1934 Act''). BMCC believes that compliance with the requirements of the 1934 Act will provide sufficient protection to its stockholders to make continued registration under the Act unnecessary.

BMCC's Conditions

As a condition to the granting of the requested order, BMCC represents that it will comply with the following conditions:

1. As required by the Orders, before BMCC and BMSBIC change their fundamental investment policies and deregister as investment companies, BMCC will obtain shareholder approval of a resolution authorizing it and BMSBIC to change their fundamental investment policies and to deregister as investment companies under the Act at the 1996 annual meeting of applicant.[3] BMCC will also obtain shareholder approval of a resolution authorizing BMCC to amend its articles of incorporation to remove all restrictions relating to the Act.

2. BMCC will not operate its business so as to be an investment company required to be registered under the Act.

BMSBIC's Conditions

As a condition to the granting of the requested order, BMSBIC represents that it will comply with the following conditions:

1. As required by the Orders, before BMCC and BMSBIC rescind their fundamental investment policies and deregister as investment companies, BMCC will obtain shareholder approval of a resolution authorizing it and BMSBIC to rescind their fundamental investment policies and to deregister as investment companies under the Act at the 1996 annual meeting of BMCC.

2. BMSBIC will not operate its business so as to be an investment company required to be registered under the Act.

initial order to permit BMCC to issue one class of senior security which is a stock); and 19030 (Oct. 15, 1992) (notice) and 19092 (Nov. 10, 1992) (order) (initial order permitting BMCC to establish and operate BMSBIC as a wholly-owned subsidiary).

[2] Applicants have not requested the Commission to concur with their analysis with respect to sections 3(c)(5) and/or 3(c)(6).

[3] The meeting is scheduled for December 16, 1996. Proxy materials will be filed with the Commission in connection with the annual meeting.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–29442 Filed 11–15–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26603]

Filings Under the Public Utility Holding Company Act of 1935, as amended (''Act'')

November 8, 1996.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 2, 1996, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application and/or declaration, as filed or as amended, may be granted and/or permitted to become effective.

Central and South West Corporation, et al. (70–7113; 70–7218)

Central and South West Corporation (''CSW''), a registered holding company, and its wholly-owned nonutility subsidiary, CSW Credit, Inc. (''Credit''), both at 1616 Woodall Rodgers Freeway, Dallas, Texas 75202, have filed a post-effective amendment under sections 9 and 10 of the Act to their application-declarations filed in the above files under sections 6, 7, 9, 10 and 12 of the Act and rule 45 thereunder.

By orders of the Commission dated July 19, 1985 (HCAR No. 23767), July 31, 1986 (HCAR No. 24157), February 8, 1988 (HCAR No. 24575), December 24, 1991 (HCAR No. 25443) and December 22, 1995 (HCAR No. 26437), CSW was authorized to organize Credit to engage in the business of factoring accounts receivable for certain subsidiaries of CSW [1] and for nonassociate utility companies; Credit was authorized to borrow up to $520 million and $304 million in respect of its factoring of associate and nonassociate utility receivables, respectively; and CSW was authorized to make equity investments in Credit of up to $80 million and $76 million in connection with its factoring of associate and nonassociate utility receivables, respectively, in each case through December 31, 1996. Credit was required to limit its acquisition of nonassociate utility receivables so that the average amount of such receivables for the preceding twelve-month period outstanding as of the end of any calendar month would be less than the average amount of receivables acquired from associate companies outstanding as of the end of each calendar month during the preceding twelve-month period (''50% Restriction'').

In 1987, the applicants filed an application with the Commission seeking authorization for Credit to factor the accounts receivable of nonassociate utilities without regard to the 50% Restriction, to increase Credit's aggregate borrowings and to increase CSW's equity investment in Credit. This application was approved in an initial decision rendered by an administrative law judge on February 23, 1989 (File No. 3–7027) (''ALJ Decision''). On review, the Commission, by order dated March 2, 1994 (HCAR No. 25995), reversed the initial decision, upheld the 50% Restriction and denied the application in its entirety.

The applicants state that on May 29, 1992, CSW and CPL entered into a settlement agreement with Houston Industries Incorporated and its subsidiary, Houston Lighting & Power Company (''HLP''), to resolve a number of disputes between the two systems (''1992 Settlement''). As part of the normalization of business relations between the parties, Credit and HLP agreed to arrangements whereby Credit would purchase electric utility accounts receivable from HLP. The 1992 Settlement was entered into when the ALJ Decision, stating that the 50% Restriction did not apply to Credit, was in effect. The applicants state that CPL and HLP reasonably believed, when they agreed upon the 1992 Settlement, that the factoring of HLP receivables under the 1992 Settlement would not be subject to the 50% Restriction. They also state that the application of the 50% Restriction diminishes the value to be received by CPL from the 1992 Settlement.

By order dated December 8, 1992 (HCAR No. 25696), Credit was authorized to borrow up to an additional $650 million in the aggregate outstanding at any one time during the 12½ year term of the 1992 Settlement for the sole purpose of purchasing accounts receivable of HLP. The initial application in connection with this order requested authorization for the factoring of HLP receivables without regard to the 50% Restriction. This request was withdrawn, however, at the request of the Commission staff, pending the outcome of Administrative Proceeding File No. 3–7027. In an order dated December 29, 1992 (HCAR No. 25720), Credit was authorized to sell a sufficient amount of HLP receivables to unrelated third parties in order to comply with the 50% Restriction.

On June 6, 1996, CSW sold Transok and used a portion of the proceeds from the sale to repay outstanding debt. Over the twelve months prior to Transok's sale, Credit factored a rolling monthly average of $87.4 million of Transok accounts receivable, and CSW estimates that this amount would have grown with Transok's business. As a result of the sale, CSW has significantly less associate receivables to factor and, through operation of the 50% Restriction, is forced to factor less nonassociate receivables and sell receivables of established nonassociate customers. The aggregate effect is to reduce the volume of receivables factored by Credit by twice the amount of Transok receivables.

As a result of these two circumstances, the applicants request authorization for CSW to factor up to $450 million of HLP accounts receivable and up to $100 million of accounts receivable of other nonassociate utility companies, on a twelve-month rolling monthly average basis, through December 31, 2000. To the extent that such factoring activities cause nonassociate accounts receivable factored by Credit to exceed the 50% Restriction at any time during that period, the applicants request a temporary exemption from the 50% Restriction.

Central and South West Corporation, et al. (70–7113; 70–7218)

Central and South West Corporation (''CSW''), a registered holding company, and its wholly-owned nonutility

[1] These companies included Central Power and Light Company (''CPL''), Public Service Company of Oklahoma, Southwestern Electric Power Company, West Texas Utilities Company and Transok, Inc. (''Transok'').

subsidiary, CSW Credit, Inc. (''Credit''), both of 1616 Woodall Rogers Freeway, P.O. Box 660164, Dallas, Texas 75202, have filed a post-effective amendment to their application-declarations in the above files, under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rules 45 and 54 thereunder, proposing to extend their existing authorizations.

By order dated July 19, 1985 (HCAR No. 23767) (''1985 Order''), CSW was authorized, among other things, to organize Credit to purchase the accounts receivable of the operating companies of CSW at a discount and to finance these purchases with the issuance and sale of debt. Credit was authorized to borrow up to $320 million and CSW was authorized to make equity investments in Credit of up to an aggregate of $80 million through December 31, 1986.

By order dated July 31, 1986 (HCAR No. 24157) (''1986 Order''), Credit was authorized to expand its business to the factoring of accounts receivable of nonaffiliated electric utility companies. In order to finance such transactions, Credit was authorized to borrow up to an additional $160 million and CSW was authorized to make additional equity investments in Credit of up to an aggregate of $40 million, through December 31, 1988. The 1986 Order also required Credit to limit its acquisition of utility receivables from nonassociate utilities so that the average amount of such receivables for the preceding twelve-month period outstanding as of the end of any calendar month would be less than the average amount of receivables acquired from CSW associate companies outstanding as of the end of each calendar month during the preceding twelve-month period. Further, the 1986 Order extended the authority of the 1985 Order until December 31, 1988.

By order dated February 8, 1988 (HCAR No. 24575), Credit was authorized, among other things, to borrow, through December 31, 1989, up to $320 million and $304 million to finance the factoring of affiliate and nonaffiliate receivables, respectively. CSW was authorized to make equity investments in Credit of up to an aggregate of $80 million and $76 million in connection with the factoring of affiliate and nonaffiliate receivables, respectively. This authority was extended through December 31, 1990 by order dated December 27, 1989 (HCAR No. 25009).

By order dated August 30, 1990 (HCAR No. 25138), Credit was authorized to lower its equity ratio to no less than 5%.

By orders dated December 21, 1990 (HCAR No. 25228) and December 24, 1991 (HCAR No. 25443) (''1991 Order''), Credit's existing authority was extended through December 31, 1991 and December 31, 1992, respectively. In addition, the 1991 Order authorized Credit to borrow up to an additional $200 million to finance the factoring of associate receivables.

The applicants state that on May 29, 1992, CSW and Central Power and Light Company entered into a settlement agreement with Houston Industries Incorporated and its subsidiary, Houston Lighting & Power Company (''HLP''), to resolve a number of disputes between the two systems (''1992 Agreement''). As part of the normalization of business relations between the parties, Credit and HLP agreed to arrangements whereby Credit would purchase accounts receivable from HLP. By order dated December 8, 1992 (HCAR No. 25696), Credit was authorized to borrow up to an additional $650 million in the aggregate outstanding at any one time during the 12½ year term of the 1992 Agreement for the sole purpose of purchasing accounts receivable of HLP.

By orders dated December 9, 1992, December 21, 1993, December 16, 1994 and December 22, 1995 (HCAR Nos. 25698, 25959, 26190 and 26437, respectively), Credit's existing authority was extended through December 31, 1993, December 31, 1994, December 31, 1995 and December 31, 1996, respectively.

Pursuant to the orders summarized above, the following authority has been granted: (1) Credit has been authorized to borrow $824 million, of which $520 million could be used to purchase receivables of affiliated companies and $304 million could be used to purchase receivables of nonaffiliated companies; and (2) CSW has been authorized to make equity investments in Credit of up to an aggregate of $156 million, of which $80 million could be used to purchase receivables of affiliated companies and $76 million could be used to purchase receivables of nonaffiliated companies.

CSW and Credit now propose to extend the authorizations under the previously granted orders through December 31, 2000.

GPU, Inc. et al. (70–8593)

GPU, Inc. (''GPU''), of 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, and two of its nonutility subsidiaries, GPU International, Inc. and EI Services, Inc., both of One Upper Pond Road, Parsippany, New Jersey 07054, its operating companies, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company, each of P.O. Box 16001, Reading, Pennsylvania 19640, and its service company, GPU Service, Inc., of 100 Interpace Parkway, Parsippany, New Jersey 07054, have filed a post-effective amendment under sections 6(a), 7, 9(a), 10, 12(b), 32 and 33 of the Act and rules 45 and 53 thereunder, to their application-declaration, under sections 6(a), 7, 9(a), 10, 12(b), 32 and 33 of the Act and rules 45, 52, 53 and 54 thereunder, in the above file.

By orders of the Commission dated July 6, 1995 and January 19, 1996 (HCAR Nos. 26326 and 26457, respectively) (''Orders''), among other things, GPU is authorized to acquire and own interests in exempt wholesale generators (''EWGs'') and foreign utility companies (''FUCOs''), as defined in sections 32 and 33 of the Act, respectively (collectively, ''Exempt Entities''), through subsidiaries (''Subsidiaries''), that are not Exempt Entities, but are engaged, directly or indirectly, and exclusively, in the business of owning and holding the interests and securities of one or more Exempt Entities and related project development activities. GPU is authorized to make equity investments in Subsidiaries in the form of capital stock or shares, trust certificates, partnership interests or other equity or participation interests; and, through December 31, 1997, to make investments in one or more Subsidiaries in the form of cash capital contributions or open account advances; loans evidenced by promissory notes; guarantees by GPU of the principal of, or interest on, any promissory notes or other evidences of indebtedness or obligations of any Subsidiary, or of GPU's undertaking to contribute equity to a Subsidiary; assumption of liabilities of a Subsidiary; and reimbursement agreements with banks entered into to support letters of credit delivered as security for GPU's equity contribution obligation to a Subsidiary or otherwise in connection with a Subsidiary's project development activities.

GPU is also authorized to make investments in Exempt Entities, through December 31, 1997, in the form of guarantees of the indebtedness of other obligations of one or more Exempt Entities; assumption of liabilities of one or more Exempt Entities; and guarantees and letter of credit reimbursement agreements in support of equity contribution obligations or otherwise in connection with project development activities for one or more Exempt Entities.

GPU's direct or indirect investments in Subsidiaries and Exempt Entities are funded from available cash or pursuant to financing transactions authorized by the Commission.[2] Pursuant to the Orders, GPU's ''aggregate investment'' (as defined in rule 53(a)(1)(i)) in Subsidiaries and Exempt Entities shall not exceed 50% of GPU's ''consolidated retained earnings'' (as defined in rule 53(a)(1)(ii)). This investment limitation is consistent with the 50% limitation in rule 53(a)(1).

GPU requests the Commission to modify this limitation, and exempt it from the requirements of rule 53(a)(1), to permit GPU to invest directly or indirectly in Exempt Entities and Subsidiaries in an aggregate amount that, when added to GPU's aggregate investment, direct and indirect, in all Exempt Entities and Subsidiaries, would not at any time exceed 100% of GPU's consolidated retained earnings. The current amount of GPU's aggregate investment, direct and indirect, in Exempt Entities and Subsidiaries (approximately $914 million as of June 30, 1996) represents approximately 45% of its consolidated retained earnings (approximately $2.05 billion as of June 30, 1996). Increasing this limitation as GPU proposes would allow additional investments, direct and indirect, in Exempt Entities and Subsidiaries of approximately $1.113 billion.

GPU intends to make substantial additional investments in EWGs and FUCOs, primarily because: (1) over the last five years there has been limited capital investment in GPU's operating companies, and it is projected that GPU will not be required to make any significant equity investment in any GPU operating company for at least the next five years; (2) acquisitions of EWGs and FUCOs give GPU the opportunity to continue to grow in an industry sector in which GPU has decades of experience, and to diversify overall asset risk; and (3) GPU has purposely invested in utility systems in foreign countries, which have moved further than the United States toward deregulation and full competition in both retail and wholesale electricity markets, in order to gain valuable experience with deregulated markets that will enhance GPU's ability to make its core domestic utility operations more competitive and efficient in the future as the United States moves toward deregulation and increased competition. Applicants also describe comprehensive procedures that GPU has established to identify and address risks involved in EWG and FUCO investments.

GPU states that the additional investments in EWGs and FUCOs to the proposed increased level will not have a substantial adverse impact on the financial integrity of the GPU system or an adverse impact on any utility subsidiary of GPU or its customers or on the ability of the affected state commissions to protect such customers. Applicants also state that GPU will not seek recovery through higher rates to its utility subsidiaries' customers in order to compensate GPU for any possible losses that it may sustain on investments in EWGs and FUCOs or for any inadequate returns on such investments.

The Columbia Gas System, Inc. et al. (70–8925)

The Columbia Gas System, Inc. (''Columbia''), a registered holding company, its service company subsidiary, Columbia Gas System Service Corporation (''Service''), its liquefied natural gas subsidiary, Columbia LNG Corporation, its trading subsidiary, Columbia Atlantic Trading Corporation (''Columbia Atlantic''), all located at 12355 Sunrise Valley Drive, Suite 300, Reston, Virginia 20191–3458; its distribution subsidiaries, Columbia Gas of Ohio, Inc. (''Columbia Ohio''), Columbia Gas of Pennsylvania, Inc. (''Columbia Pennsylvania''), Columbia Gas of Kentucky, Inc. (''Columbia Kentucky''), Columbia Gas of Maryland, Inc. (''Columbia Maryland''), Commonwealth Gas Services, Inc. (''Commonwealth Services'') (together, ''Utility Subsidiaries''), all located at 200 Civic Center Drive, Columbia, Ohio 43215; its transmission subsidiaries, Columbia Gas Transmission Corporation (''Columbia Transmission'') and Columbia Gulf Transmission Company (''Columbia Gulf''), both located at 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314; its exploration and production subsidiary, Columbia Natural Resources, Inc. (''Columbia Natural''), 900 Pennsylvania Ave., Charleston, West Virginia 25302; its propane distribution subsidiaries, Commonwealth Propane, Inc. and Columbia Propane Corporation (''Columbia Propane''), both located at 800 Moorefield Park Drive, Richmond, Virginia 23236; its energy services and marketing subsidiaries, Columbia Energy Services Corporation, Columbia Service Partners, Inc. and Columbia Energy Marketing Corporation, all located at 2581 Washington Road, Upper Saint Claire, Pennsylvania 15241; its network services subsidiary, Columbia Network Services Corporation, 1600 Dublin Road, Columbus, Ohio 43215–1082; and its other subsidiaries, Tristar Ventures Corporation (''TriStar Ventures''), Tristar Capital Corporation (''TriStar Capital''), Tristar Pedrick Limited Corporation, Tristar Pedrick General Corporation, Tristar Binghamton Limited Corporation, Tristar Binghamton General Corporation, Tristar Vineland Limited Corporation, Tristar Vineland General Corporation, Tristar Rumford Limited Corporation, Tristar Georgetown Limited Corporation, Tristar Georgetown General Corporation, Tristar Fuel Cells Corporation, TVC Nine Corporation, TVC Ten Corporation and Tristar System, Inc., all located at 205 Van Buren, Herndon, Virginia 22070 (together, ''System'' or ''Applicants'') (all subsidiaries, ''Subsidiaries'') (all subsidiary companies excluding the Utility Subsidiaries, ''Nonutility Subsidiaries'') have filed a joint application-declaration under sections 6, 7, 9, 10, 12(b), 12(c), 12(e), 12(f), 32 and 33 of the Act and rules 42, 43, 45 and 53 thereunder.

The System is seeking, for the period from the effective date of an order in this matter through December 31, 2001, as more fully described, below, Commission authorization for: (1) external financing by Columbia, including requests for (a) short-term financing in the form of borrowing under a revolving credit agreement, commercial paper and bid notes; (b) long-term financing; (c) hedging the interest risk associated with existing and to be issued fixed and floating rate debt; (d) equity financing; and (e) the issuance of other securities; (2) intrasystem financing of Subsidiaries, including: (a) long-term debt; (b) short-term debt, including continuing of the Columbia system money pool (''Money Pool''); (c) guarantees; (d) paying dividends to the extent permitted by Delaware law from additional capital surplus; and (e) reincorporation of Columbia Natural in Delaware; (3) external financing by Nonutility Subsidiaries and the formation of financing entities; (4) financing for the purpose of acquiring exempt wholesale generators (''EWGs'') and foreign utility companies (''FUCOs'').

The Applicants request authority to engage in various financing and related transactions, for the period from the effective date of an order in this matter through December 31, 2001, for which the specific terms and conditions are not at this time known. The authorization is sought subject to the following conditions: (1) Columbia will

[2] In this post-effective amendment, GPU is not requesting authorization to issue additional securities to increase its investment in Exempt Entities.

maintain its long-term debt rating at an investment grade level as established by a nationally recognized statistical rating organization, as that term is used in rule 15c3–1(c)(2)(vi)(F) of the Securities Exchange Act of 1934; (2) its common equity, as reflected in its most recent Form 10–K or Form 10–Q and as adjusted to reflect subsequent events that affect capitalization, does not fall below 30% of its consolidated capitalization; (3) the effective cost of money on debt borrowing occurring pursuant to this authorization will not exceed 300 basis points over comparable term U.S. Treasury securities; (4) the effective cost of money on preferred stock and other fixed-income oriented securities will not exceed 500 basis points over 30-year term U.S. Treasury securities; (5) the maturity of indebtedness will not exceed 50 years; (6) the underwriting fees, commissions, or other similar remuneration paid in connection with the non-competitive bid issue, sale or distribution of a security in this matter will not exceed 5% of the principal or total amount of the financing; (7) the aggregate amount of external, long-term debt and equity financing issued by Columbia, through December 31, 2001, will not exceed $5 billion of long-term debt and equity financing or more than $1 billion of short-term borrowing outstanding at any one time; (8) the proceeds from the sale of securities by Columbia in external financing transactions will be added to Columbia's treasury and used for general and corporate purposes including: (a) the financing, in part, of the capital expenditures of Columbia and its Subsidiaries; (b) in the case of short-term debt, the financing of gas storage inventories, other working capital requirements and capital spending of the System; (c) the acquisition of interests in EWGs and FUCOs; and/or (d) the acquisition, retirement, or redemption of securities of which Columbia is an issuer without the need for prior Commission approval pursuant to rule 42 or a successor rule. Any deviations from these conditions would require further Commission approval.

External Short-Term Financing

Columbia currently obtains funds externally through short-term debt financing under the $1 billion Credit Agreement dated as of November 28, 1995, between Columbia and a group of banks with Citibank, N.A. as Agent (''Credit Facility'').[3] To provide financing for general corporate purposes, including financing gas storage inventories, other working capital requirements and construction spending until long-term financing can be obtained, Columbia requests authorization to have outstanding at any one time, through December 31, 2001, up to $1 billion of short-term debt consisting of borrowing under the Credit Facility, the issuance of commercial paper, the sale of bid notes, discussed below, and other forms of short-term financing generally available to borrowers with investment grade credit ratings.

In order to consolidate all orders authorizing financing under one file, Columbia requests that the authorization for the Credit Facility be withdrawn and superseded by the order of the Commission sought herein. Columbia further requests authorization to amend the Credit Facility without further Commission authorization provided that the maturity date does not go beyond December 31, 2001, and the principal amount and borrowing margins do not increase.

Commercial paper would be sold, from time-to-time, in established domestic or European commercial paper markets to dealers at the prevailing discount rate per annum, or at the prevailing coupon rate per annum, at the date of issuance. It is expected that the dealers acquiring commercial paper from Columbia will re-offer such paper at a discount to corporate, institutional and, with respect to European commercial paper, to individual investors.

Back-up bank lines of credit for 100% of the outstanding amount of commercial paper are generally required by credit rating agencies. The Credit Facility will back-up Columbia's commercial paper program, thus negating the need for additional lines of credit.

Bid Notes Agreements

Columbia also requests approval to enter into individual agreements (''Bid Note Agreements'') with one or more commercial banks which are lenders under the Credit Facility. The Bid Note Agreements would permit Columbia to negotiate with one or more banks (''Bid Note Lender[s]'') on any given day for such Bid Note Lender, or any affiliate or subsidiary of such lender, to purchase promissory notes (''Bid Notes'') directly from Columbia. Such notes would bear interest rates comparable to, or lower than, those available through other proposed forms of short-term borrowing with similar terms. The maturity of the Bid Notes would not exceed 270 days, and the total amount of Bid Notes outstanding at any time, when added to the aggregate amounts of short-term borrowing outstanding under other forms of short-term borrowing, would not exceed $1 billion.

Other Short-Term Securities

Columbia proposes to engage in other types of short-term financing as it may deem appropriate in light of its needs and market conditions at the time of issuance. Such short-term financing could include, without limitation, bank borrowing and medium-term notes issued under its Indenture, dated as of November 28, 1995, between Columbia and Marine Midland Bank, Trustee, as amended (''Indenture''). The Indenture provides that the specific terms of any securities issued be set by resolution of Columbia's Board of Directors. The maturities of such borrowing would not exceed one year. In no case will the outstanding balance of all short-term borrowing exceed $1 billion.

Long-Term Financing

Columbia proposes to issue from time-to-time, prior to December 31, 2001, long-term securities aggregating not more than $5 billion. Columbia proposes to issue any combination of debentures, which may be in the form of medium term notes, and/or common stock, preferred stock, or other equity and debt securities in an aggregate amount not to exceed $5 billion. Other examples of such long-term debt securities would include, but not be limited to, convertible debt, subordinated debt, bank borrowing, and securities with call or put options. Any long-term debt security would have such designation, aggregate principal amount, maturity, interest rate(s) or methods of determining the same, terms of payment of interest, redemption provisions, non-refunding provisions, sinking fund terms, conversion or put terms and other terms and conditions as Columbia may determine at the time of issuance. Debentures and medium-term notes would be issued under the Indenture.

Such securities may be issued and sold pursuant to standard underwriting agreements. Public distribution may be effected through private negotiations with underwriters, dealers or agents, or through competitive bidding among underwriters. In addition, such securities may be issued and sold through private placements or other non-public offerings to one or more persons or distribution by dividend or otherwise to existing shareholders. All such debentures and stock sales will be at rates or prices and under conditions

[3] *See Columbia Gas System, Inc.*, Holding Co. Act Release No. 26361 (August 25, 1995).

negotiated, or based upon, or otherwise determined by, competitive capital markets.

Interest Rate Swaps and Other Hedging Strategies

Columbia proposes to enter into hedging transactions to be initiated prior to December 31, 2001, to convert all or a portion of existing floating rate debt from time-to-time to fixed rate debt or to convert all or a portion of existing fixed rate debt from time-to-time to floating rate debt using interest rate swaps or other derivative products designed for such purposes.

Interest Rate Swaps for Existing Debt

Columbia proposes to enter into one or more interest rate swaps (''Swaps''), and one or more derivative instruments, such as interest rate caps, interest rate floors and interest rate collars (collectively, ''Derivative Transactions''), with one or more counterparties from time-to-time through December 31, 2001, in national amounts aggregating not in excess of the amount of debt outstanding at any one time.

Columbia proposes to use two different swap strategies. Under one swap strategy, Columbia would agree to make payments of interest to a counterparty, payable periodically. The interest would be payable at a variable or floating rate index and would be calculated on a notional (i.e., principal) amount. In return, the counterparty would agree to make payments to Columbia based upon the same notional amount and at an agreed upon fixed interest rate. This would be a ''floating-to-fixed swap'' on Columbia's part. Under another swap strategy Columbia would pay a fixed interest rate and receive a variable interest rate on a notional amount. This would be a ''fixed-to-floating swap'' on Columbia's part. Columbia will enter into Swaps and/or Derivative Transactions only with creditworthy counterparties.

Hedging Interest Rate Risk for Anticipated Debt

Columbia also seeks authorization to enter into an interest rate hedging program (''Hedge Program'') within a limited time prior to the issuance of long-term debt securities. The Hedge Program would only be undertaken pursuant to the express approval of the Columbia Board of Directors and would only be authorized to occur within 90 days of the issuance of long-term debt securities.

The Hedge Program would be utilized to fix and/or limit the interest rate risk exposure of any new issuance through: (1) a forward sale of exchange-traded U.S. Treasury futures contracts, U.S. Treasury securities and/or a forward swap (each a ''Forward Sale''); (2) the purchase of put options on U.S. Treasury securities (''Put Options Purchase''); (3) a Put Options Purchase in combination with the sale of call options on U.S. Treasury securities (''Zero Cost Collar''); or (4) some combination of a Forward Sale, Put Options Purchase and/or Zero Cost Collar. The program may be executed on-exchange (''On-Exchange Trades'') with brokers through the opening of futures and/or options positions traded on the Chicago Board of Trade, the opening of over-the-counter positions with one or more counterparties (''Off-Exchange Trades'') or a combination of On-Exchange Trades and Off-Exchange Trades. Columbia will determine the optimal structure of the Hedge Program at the time of execution. Columbia may decide to lock in interest rates and/or limit its exposure to interest rate increases. All open positions under the Hedge Program will be closed on or prior to the date of the new issuance and Columbia will not, at any time, take possession of the underlying U.S. Treasury securities. Further, no hedge position will be outstanding for more than 90 days.

All transactions entered into under the Hedge Program will be *bona fide* hedges of interest rate risk. To prohibit the possibility of ''speculative'' transactions, each transaction, or set of transactions, under the Hedge Program must be approved by the Columbia Hedge Committee, consisting of senior executive officers, and authorized by resolution of Columbia's Board of Directors prior to its execution.

Equity Financing

Columbia proposes, through December 31, 2001, to issue equity securities in an amount, when combined with the proposed long-term debt securities, will not exceed $5 billion. Such issuance would include common stock issued pursuant to the Long-Term Incentive Plan where options to purchase up to 3 million shares of common stock may be issued over a ten-year period, through February 21, 2006, monthly or quarterly income preferred securities, rights, options and/or warrants convertible into common or preferred stock and common and/or preferred stock issued upon the exercise of convertible debt, rights, options, warrants and/or similar securities.

From time-to-time in the future, other employee benefit plans may be adopted by Columbia or a divided reinvestment plan or stock purchase plan may be adopted, providing for the issuances of common stock. For instance, a dividend reinvestment plan and direct stock purchase plan allowing sales to persons not already shareholders may be implemented. Columbia now proposes to issue and/or sell shares of common stock pursuant to the existing plan and similar plan or plans funding arrangements hereinafter adopted and to engage in other sales of its treasury shares, if any, for reasonable business purposes without any additional prior Commission order through December 31, 2001, except that the options to purchase shares under the Long-Term Incentive Plan may be issued from time-to-time until February 21, 2006. Stock transactions of this variety would thus be treated the same as other stock transactions permitted pursuant to this proposal. Such authorization would supersede the Long-Term Incentive Plan authorization.

Other Securities

In addition to the specific securities for which authorization is sought, Columbia also proposes to issue other types of securities that it deems appropriate during the period ending December 31, 2001. Columbia requests that the Commission reserve jurisdiction over the issuance of additional types of securities. Columbia also undertakes to file a post-effective amendment which will describe the general terms of each such security and request a supplemental order of the Commission authorizing the issuance thereof by Columbia.

Intrasystem Financing

The Maryland Public Service Commission does not exercise jurisdiction over the issuance by Columbia Maryland of long or short-term securities. The Kentucky, Ohio and Pennsylvania utility commissions do not exercise jurisdiction over the issuance of short-term debt. Commission authorization is, therefore, requested for the issuance, from time-to-time, prior to December 31, 2001, of short-term securities by Columbia Maryland, Columbia Kentucky, Columbia Ohio and Columbia Pennsylvania and for the issuance, from time-to-time, prior to December 31, 2001, of long-term securities by Columbia Maryland and their purchase, in each instance, by Columbia.

Internal Long-Term Financing by Utility Subsidiaries

Columbia and Columbia Maryland are seeking Commission authorization for the sale of long-term debt securities (''Notes'') by Columbia Maryland to

Columbia or the sale of common stock by Columbia Maryland to Columbia in a cumulative amount not to exceed $30 million for the period through December 31, 2001.

Columbia Maryland plans to finance part of its 1997–2001 capital expenditure programs with funds generated from the sale of Notes and common stock to Columbia for cash. Columbia states that the portion of the financing to be effected through the sale of stock cannot be ascertained at this time. Columbia would continue to finance Columbia Maryland to maintain a capital structure in a manner consistent with that of a company with an investment grade credit rating.

The interest rate on the Notes will be the rate, including issuance costs, for the most recent long-term debt securities issued by Columbia during the previous calendar quarter. If no long-term debt securities were issued during the previous calendar quarter, the interest rate will be either the estimated new long-term rate that would be in effect if Columbia were to issue securities, as projected by a major investment bank, or the prevailing market rate for a newly-issued ''A'' rated utility bond. The current rate on a newly issued ''A'' rated 25–30 year utility bond is 8%. A default rate equal to 2% per annum in excess of the stated rate on unpaid principal or interest amounts would be assessed if any interest or principal payment becomes past due. The principal amount of the Notes will be repaid over a term not exceeding thirty years.

The Notes will be issued under a previously authorized loan agreement. The loan agreement provides for Columbia Maryland to issue either secured or unsecured debt securities to Columbia from time-to-time in exchange for cash.

Internal Long-Term Financing by Nonutility Subsidiaries

The Nonutility Subsidiaries propose to issue and Columbia proposes to acquire, through December 31, 2001, other types of securities which do not qualify for exemption under rule 52. Columbia and the Nonutility subsidiaries request that the Commission reserve jurisdiction over the issuance of such additional securities. The parties undertake to file a post-effective amendment in this proceeding describing the general terms of each security and requesting a supplemental order of the Commission authorizing the issuance thereof by the subject Nonutility Subsidiary.

Continuation of Money Pool/Internal Short-Term Financing

The Subsidiaries require short-term funds to meet normal working capital requirements. It is proposed that the Subsidiaries borrow short-term funds from the Money Pool, through December 31, 2001. The maximum amount of Money Pool borrowing outstanding for each Subsidiary will be determined by Columbia and the Subsidiaries in accordance with business needs. Actual short-term financing would be issued based on working capital requirements and any interim financing needed to bridge between issuances of long-term capital. The maximum short-term debt to be issued by Columbia Pennsylvania, Columbia Ohio, Columbia Maryland and Columbia Kentucky will not exceed 40% of their total capitalization.

All short-term borrowing will be through the Money Pool with Service acting as agent. Columbia may invest in the Money Pool, but will not borrow from the Money Pool. Should there be insufficient funds in the Money Pool to meet the Subsidiaries' aggregate short-term needs for funds, Columbia will borrow or issue short-term securities and invest the proceeds in the Money Pool to fund the shortage.

The cost of money on all short-term advances and the investments rate for moneys invested in the Money Pool will be the interest rate per annum equal to the Money Pool's weighted average short-term investment rate and/or Columbia's short term borrowing rate. Should there be no Money Pool investments or Columbia borrowing, the cost of money will be the prior month's average Federal Funds rate as published in the *Federal Reserve Statistical Release, Publication H. 15 (519).* A default rate equal to 2% per annum above the pre-default rate on unpaid principal or interest amounts will be assessed if any interest or principal payment becomes past due. For Money Pool participation by new direct or indirect subsidiaries engaged in new lines of business, Columbia requests that the Commission reserve jurisdiction.

Guarantees

Columbia and the Nonutility Subsidiaries and any nonutility subsidiary established prior to December 31, 2001, request authorization to enter guarantee arrangements, obtain letters of credit, and otherwise provide credit support with respect to obligations of their respective subsidiaries as may be needed and appropriate to enable them to carry on in the ordinary course of their respective businesses. The maximum aggregate limit on all such credit support by Columbia and by all Subsidiaries at any time will be $500 million. The $500 million of guarantees is in addition to any financing requested in this matter. Columbia would charge a cost-based fee for its credit support under the guarantee arrangement.

Reduction of Authorized Shares/ Dividends

Columbia Atlantic, Columbia Gulf, Columbia Transmission, Columbia Maryland, Service, Columbia Propane, Tristar Capital and Tristar Ventures propose to reduce their authorized and outstanding shares of common stock to 3,000 shares or less via a reverse stock split. The reverse stock split will be accomplished through an amendment to their respective certificates of incorporation.

Based on reducing their respective authorized shares to 3,000 or less, the Subsidiaries will save an estimated aggregate amount of $125,000 in franchise taxes each year. As a result of this transaction, additional capital surplus will be created. It is requested that each of the subsidiaries receive authorization to pay dividends from the surplus created by the reverse stock split transaction; however, no extraordinary dividends are anticipated at this time.

Reincorporation of Columbia Natural

Columbia Natural proposes to reincorporate in Delaware. Under a Plan of Reorganization and Merger, all of the assets and trade liabilities of Columbia Natural will be transferred to Columbia Natural (DE) in exchange for common stock of Columbia Natural (DE) which would simultaneously be transferred to Columbia in exchange for all outstanding shares of Columbia Natural, leaving Columbia Natural (DE) the surviving company.

The merger will qualify as a tax-free reorganization under sections 368(a)(1)(A) and (F) of the Internal Revenue Code of 1986, as amended. Columbia Natural (DE) will succeed to all of the rights and assets of Columbia Natural and will assume all of its liabilities and obligations. The officers and directors of Columbia Natural will become the officers and directors of Columbia Natural (DE).

External Nonexempt Financing by Nonutilities

The Nonutility Subsidiaries are expected to be active in the development and expansion of energy-related, nonutility businesses in the System. The Nonutility Subsidiaries

may engage in types of security financing with nonaffiliates which do not qualify for the application of Rule 52. The Nonutility Subsidiaries, therefore, request that the Commission reserve jurisdiction over the issuance of such additional types of securities. They also undertake to cause a post-effective amendment to be filed in this proceeding which will describe the general terms of each such security and request a supplemental order of the Commission authorizing the issuance thereof by the subject Nonutility Subsidiary.

Financing Entities

Columbia and the Nonutility Subsidiaries propose to organize new corporations, trusts, partnerships or other entities created to facilitate financing through their issue to third parties of monthly and quarterly income preferred securities. Columbia and Nonutility Subsidiaries seek authority to issue such securities to third parties to the extent required under the Act. Additionally, request is made for authorization with respect to: (1) The issuance of debentures or other evidences of indebtedness by Columbia to a financing entity in return for the proceeds of the financing; and (2) the acquisition by Columbia of voting interests or equity securities issued by the financing entity to establish Columbia's ownership of the financing entity. Columbia and the Nonutility Subsidiaries also request authorization to enter into expense agreements with their respective financing entities, pursuant to which they would agree to pay all expenses of such entity.

Financing of EWGs and FUCOs

Columbia currently owns no equity interests in either EWGs or FUCOs. Sections 32 and 33 of the Act permit a registered holding company to acquire and maintain interests in one or more EWGs and FUCOs without the need to apply for or receive approval from the Commission. To the extent that funds for one or more projects are required in excess of internally generated funds, Columbia hereby requests Commission authorization to invest proceeds from the proposed securities to be issued herein for the purpose of financing the acquisition of EWGs and FUCOs in compliance with rule 53(a)(1) such that Columbia's aggregate investment at any one time during the period covered by this Application will not exceed 50% of its ''consolidated retained earnings,'' as defined in rule 53(a)(1)(ii).

Gulf Power Company (70–8947)

Gulf Power Company (''Gulf Power''), 500 Bayfront Parkway, Pensacola, Florida 32501, an electric utility subsidiary of The Southern Company, a registered holding company, has filed a declaration under sections 6(a), 7 and 12(d) of the Act and rules 44 and 54 thereunder.

As described in more detail below, Gulf Power proposes to issue and sell from time to time, prior to January 1, 2004, short-term and/or term loan notes to lenders, commercial paper to or through dealers and/or issue non-negotiable promissory notes to public entities for their revenue anticipation notes in an aggregate principal amount at any one time outstanding of up to $300 million. Gulf Power states that any proposed borrowings may be, and any such borrowings in excess of the maximum aggregate principal amount of unsecured debt permitted under its charter and under the exemption afforded by section 6(b) of the Act would be, secured by a subordinated lien on certain assets of Gulf Power.

Gulf Power proposes to borrow from certain banks or other lending institutions. Such borrowings will be evidenced by notes to be dated as of the date of such borrowings to mature in not more than 10 years after the date of issue, or by ''grid'' notes evidencing all outstanding borrowings from each lender to be dated as of the date of the initial borrowing to mature not more than 10 years after the date of issue. Gulf Power proposes that it may provide that any note evidencing such borrowings may not be prepayable, or that it may be prepaid with payment of a premium that is not in excess of the stated interest rate on the borrowing to be prepaid, which premium in the case of a note having a maturity of more than one year may thereafter decline to the date of the note's final maturity.

Borrowings will be at the lender's prevailing rate offered to corporate borrowers of similar quality. Such rates will not exceed the prime rate or (i) the London Interbank Offered Rate plus up to 2%, (ii) the lender's certificate of deposit rate plus up to 1¾% or (iii) a rate not to exceed the prime rate plus 1% to be established by bids obtained from the lenders prior to a proposed borrowing; provided, however, that with respect to borrowings with a maturity in excess of one year, the rate will not exceed the yield for a comparable maturity Treasury note plus one percent.

Compensation for the credit facilities may be provided by fees of up to ½ of 1% per annum of the amount of the facility. Compensating balances may be used in lieu of fees to compensate certain of the lenders.

Gulf Power also may make short-term borrowings in connection with the financing of certain pollution control facilities through the issuance by public entities of their revenue bond anticipation notes. Under an agreement with the public entity, Gulf Power effectively would borrow the proceeds of the sale of the revenue bond anticipation notes, having a maturity of not more than one year after the date of issue, for which Gulf Power may issue a non-negotiable promissory note. Such note would provide for payments to be made at times and in amounts to correspond to payments for the principal, premium, if any, and interest, which shall not exceed the prime rate, on such revenue bond anticipation notes, whenever and in whatever manner the same shall become due, whether at stated maturity, upon redemption or declaration of otherwise. Gulf Power requests that the Commission reserve jurisdiction over the issuance by Gulf Power of its non-negotiable promissory notes pending completion of the record.

Gulf Power also proposes to issue and sell commercial paper to or through dealers from time to time prior to January 1, 2004. Such commercial paper will be in the form of promissory notes with varying maturities not to exceed nine months. Actual maturities will be determined by market conditions, the effective interest costs and Gulf Power's anticipated cash flow, including the proceeds of other borrowings, at the time of issuance. The commercial paper notes will be issued in denominations of not less than $50,000 and will not by their terms be prepayable prior to maturity.

The commercial paper will be sold by Gulf Power directly to or through a dealer or dealers (''Dealer''). The discount rate (or the interest rate in the case of interest-bearing notes), including any commissions, will not be in excess of the discount rate per annum (or equivalent interest rate) prevailing at the date of issuance for commercial paper of comparable quality of the particular maturity sold by issuers thereof to commercial paper dealers. No commission fee will be payable in connection with the issuance and sale of commercial paper, except for a commission not to exceed ⅛ of 1% per annum payable to the Dealer in respect of commercial paper sold through the Dealer as principal. The Dealer will reoffer such commercial paper at a discount rate of up to ⅛ of 1% per annum less than the prevailing interest

rate to Gulf Power or at an equivalent cost if sold on an interest-bearing basis.

Pursuant to order dated May 9, 1994 (HCAR No. 26049), Gulf Power is authorized to effect certain short-term borrowings prior to January 1, 1997. At September 30, 1996, borrowings in the aggregate principal amount of approximately $64.1 million were outstanding pursuant to such authorization. Gulf proposes that the authorization sought pursuant to this declaration would supersede and replace authorizations in file number 70–8397 effective immediately upon the date of the Commission's order authorizing this declaration.

The proceeds from the proposed borrowings will be used by Gulf Power for working capital purposes, including the financing in part of its construction program.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–29414 Filed 11–15–96; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–22325; File No. 812–10274]

Merrill Lynch Variable Series Funds, Inc. et al.

November 8, 1996.

AGENCY: Securities and Exchange Commission (the ''SEC'' or ''Commission'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (''1940 Act'').

APPLICANTS: Merrill Lynch Variable Series Funds, Inc. (''Company''), Merrill Lynch Asset Management L.P., Merrill Lynch Life Insurance Company, ML Life Insurance Company of New York, Merrill Lynch Variable Life Separate Account, Merrill Lynch Life Variable Life Separate Account II, Merrill Lynch Life Variable Annuity Separate Account A, Merrill Lynch Life Variable Annuity Separate Account B, Merrill Lynch Life Variable Annuity Separate Account, ML of New York Variable Life Separate Account, ML of New York Variable Life Separate Account II, ML of New York Variable Annuity Separate Account A, ML of New York Variable Annuity Separate Account B, and ML of New York Variable Annuity Separate Account.

RELEVANT 1940 ACT SECTIONS: Order requested under Section 17(b) of the 1940 Act granting an exemption from the provisions of Section 17(a) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order permitting the Company's Merrill Lynch Flexible Strategy Fund series to combine with and into its Merrill Lynch Global Strategy Focus Fund series and permitting the Company's Merrill Lynch International Bond Fund series to combine with and into its Merrill Lynch World Income Focus Fund series.

FILING DATE: The application was filed on July 25, 1996, and amended on November 6, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 3, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Any person may request notification of a hearing by writing to the Commission Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington D.C. 20549. Ira P. Shapiro, Esq., Merrill Lynch Variable Series Funds, Inc., 800 Scudders Mill Road, Plainsboro, New Jersey 08536. Edward Diffin, Esq., Merrill Lynch Insurance Group, 800 Scudders Mill Road, Plainsboro, New Jersey 08536. Leonard B. Mackey, Jr., Esq., Rogers & Wells, 200 Park Avenue, New York, NY 10166.

FOR FURTHER INFORMATION CONTACT: Joyce Merrick Pickholz, Senior Counsel, or Patrice M. Pitts, Branch Chief, Office of Insurance Products (Division of Investment Management), at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application may be obtained for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

1. The Company is a Maryland corporation registered under the 1940 Act as an open-end management investment company.

2. The Company currently offers its shares in seventeen separate series (''Funds'') to separate accounts (''Separate Accounts'') of certain insurance companies (''Insurance Companies''), including Merrill Lynch Life Insurance Company (''MLLIC'') and ML Life Insurance Company of New York (''ML of New York''), wholly owned subsidiaries of Merrill Lynch & Co., Inc. (''Merrill Lynch''), to fund benefits under variable annuity contracts and/or variable life insurance contracts issued by such companies (''Contracts'').

3. The Separate Accounts include Merrill Lynch Variable Life Separate Account; Merrill Lynch Life Variable Life Separate Account II; Merrill Lynch Life Variable Annuity Separate Account A; Merrill Lynch Life Variable Annuity Separate Account B; Merrill Lynch Life Variable Annuity Separate Account; ML of New York Variable Life Separate Account; ML of New York Variable Life Separate Account II; ML of New York Variable Annuity Separate Account A; ML of New York Variable Annuity Separate Account B; and ML of New York Variable Annuity Separate Account.

4. Merrill Lynch Asset Management L.P. (''Investment Adviser'') is the investment adviser for each series of the Company and an indirect wholly owned subsidiary of Merrill Lynch.

5. Applicants request an exemption from the provisions of Section 17(a) of the 1940 Act to permit the Company's Merrill Lynch Flexible Strategy Fund series (''Flexible Strategy Fund'') to be combined with and into its Merrill Lynch Global Strategy Focus Fund series (the''Global Strategy Focus Fund'') and the Company's Merrill Lynch International Bond Fund series (''International Bond Fund'') be combined with and into its Merrill Lynch World Income Focus Fund series (''World Income Focus Fund'')(the ''Reorganizations''). MLLIC and ML of New York hold of record in their own name more than 5% of the outstanding shares of each of the Flexible Strategy Fund and the International Bond Fund (together, the ''Transferor Funds'') and the Global Strategy Focus Fund and the World Income Focus Fund (together, the ''Acquiring Funds'').

6. Pursuant to the Reorganizations, the Acquiring Funds will acquire all of the assets and assume all of the liabilities of the corresponding Transferor Funds in exchange for shares of the Acquiring Funds of the basis of relative new asset values at the effective date of the Reorganizations. Following the Reorganizations each Transferor Fund will liquidate and distribute the shares of the Acquiring Funds *pro rata* to its shareholders of record.

7. Each Reorganization is intended to be a ''reorganization'' within the meaning of Section 368 of the Internal Revenue Code of 1986, as amended (the ''Code''). The Transferor Funds and corresponding Acquiring Funds will

receive an opinion of outside counsel substantially to the effect, among other things, that (a) shareholders of each Transferor Fund will recognize no income, gain or loss upon receipt, pursuant to the Reorganizations, of the corresponding Acquiring Fund's shares; (b) the Transferor Funds will recognize no income, gain or loss by reason of their Reorganization; and (c) the Acquiring Funds will recognize no income, gain or loss by reason of their Reorganization.

Comparison of the Transferor Funds to the Acquiring Funds Fund Assets

Fund Assets

8. At March 31, 1996, the Flexible Strategy Fund had net assets of approximately $324,163,771, while the Global Strategy Focus Fund had net assets of approximately $554,297,564, and the International Bond Fund had net assets of approximately $17,166,252, while the World Income Focus Fund had net assets of approximately $87,923,711. For the three months ended March 31, 1996, the annualized ratio of total expenses to average net assets was 0.71% for the shares of each of the Flexible Strategy Fund and the Global Strategy Focus Fund, and the annualized ratio of total expenses to average net assets was 0.78% (before expense reimbursement) for the shares of the International Bond Fund, compared to 0.68% for the shares of the World Income Focus Fund.

Fund Expenses

9. The Company's Investment Advisory Agreements require the Investment Adviser to reimburse each Fund (up to the amount of the advisory fee earned by the Investment Adviser with respect to such Fund) if and to the extent that in any fiscal year the operating expenses of the Fund exceed the most restrictive expense limitation then in effect under any state securities law or the published regulations thereunder. At present the most restrictive expense limitation requires the Investment Adviser to reimburse expenses which exceed 2.5% of each Fund's first $30 million of average daily net assets, 2.0% of its average daily net assets in excess of $30 million but less than $100 million, and 1.5% of its average daily net assets in excess of $100 million. Expenses for this purpose include the Investment Adviser's fee but exclude interest, taxes, brokerage fees and commissions and extraordinary charges, such as litigation costs.

10. The Investment Adviser and Merrill Lynch Life Agency, Inc. (''MLLA'')—the entity that sells the Contracts—entered into two reimbursement agreements (the ''Reimbursement Agreements'') that provide that the expenses paid by each Fund (excluding interest, taxes, brokerage fees and commissions and extraordinary charges such as litigation costs) will be limited to 1.25% of its average net assets. Any expenses in excess of this percentage will be reimbursed to the Fund by the Investment Advisers which, in turn, will be reimbursed by MLLA. The Reimbursement Agreements may be amended or terminated by the parties thereto upon prior written notice to the Company.

11. The investment advisory fee for each of the Flexible Strategy Fund and the Global Strategy Focus Fund is 0.65% per annum of average daily net assets. The investment advisory fee for each of the International Bond Fund and the World Income Focus Fund is 0.60% per annum of average daily net assets. During the Company's financial year ended December 31, 1995, the advisory fee expense incurred by the Company totalled $21,376,742 of which $1,941,598 related to the Flexible Strategy Fund and $3,348,535 related to the Global Strategy Focus Fund, and $70,573 related to the International Bond Fund and $464,049 related to the World Income Focus Fund.

12. During the same period, the total operating expenses of the Transferor Funds and the Acquiring Funds (including the advisory fees paid by the Investment Adviser), were as follows: $2,128,926 by Flexible Strategy Fund (representing .71% of its average net assets), $3,719,425 by Global Strategy Focus Fund (representing .72% of its average net assets), and $112,261 by International Bond Fund (representing .95% of its average net assets prior to complete reimbursement by the Investment Manager) and $527,752 by World Income Focus Fund (representing .68% of its average net assets). Thus far during 1996, the Investment Adviser has continued to waive all of its fees and reimbursed all expenses of the International Bond Fund. The Investment Adviser has no current intention of waiving its advisory fee payable by the World Income Focus Fund or reimbursing the World Income Focus Fund for any expenses, other than as required under the Reimbursement Agreements.

Fund Investment Objectives and Policies

13. The Flexible Strategy Fund has an investment objective of high total investment return consistent with prudent risk and the Global Strategy Focus Fund has an investment objective of high total investment return by investing primarily in a portfolio of equity and fixed income securities, including convertible securities, of United States and foreign issues. The Flexible Strategy Fund seeks to meet its investment objective by investing primarily in securities of U.S. issuers [1] whereas the Global Strategy Focus Fund invests primarily in the securities of issuers located in the United States, Canada, Western Europe and the Far East.

14. The investment policies of the Flexible Strategy Fund and the Global Strategy Focus Fund are also substantially similar. Both Funds may invest in a broad range of securities, including equity securities of domestic and foreign large-capitalization and small capitalization companies, convertible and non-convertible intermediate and long-term debt obligations issued or guaranteed by sovereign and corporate issuers, and money market obligations. In addition, both Funds may, at any given time, concentrate their investments in either equities or debt securities. However, because of its greater ability to invest in non-U.S. securities, the Global Strategy Focus Fund, unlike the Flexible Strategy Fund, may engage in transactions in futures contracts, options on futures contracts, forward foreign exchange contracts, currency options and options on portfolio securities and on stock indexes for hedging purposes only and not for speculation. This ability to engage in hedging transactions also accounts for the variation in what are otherwise substantially similar fundamental and non-fundamental investment restrictions.

15. The investment objective of the International Bond Fund is to seek a high total investment return. The investment objective of the World Income Focus Fund is to seek to provide stockholders with high current income. However, the Reorganization of the International Bond Fund and the World Income Focus Fund is contingent upon the approval by shareholders of the World Income Focus Fund of a proposal to change the investment objective of the World Income Focus Fund to an investment objective substantially similar to that of the International Bond Fund.

16. In addition, the fundamental and non-fundamental investment restrictions applicable to the two Funds

[1] As a matter of operating policy, the Flexible Strategy Fund may invest up to 25% of its net assets in the securities of non-U.S. issuers.

are substantially similar.[2] To the extent there was any variation in those restrictions, such variations would be eliminated by the adoption of proposed uniform investment restrictions submitted to stockholders of the Company's Funds (other than the Merrill Lynch Domestic Money Market Fund and the Merrill Lynch Reserve Assets Fund) at the same time approval of the combination of the two Funds was sought.

Approval by the Board and Contractowners

17. The Reorganizations were unanimously approved by the Board of Directors of the Company, including the disinterested directors thereof, on July 10, 1995, and were approved by the shareholders of the Transferor Funds on October 11, 1996.

Applicants' Legal Analysis

1. Section 17(a) of the 1940 Act provides, in pertinent part, that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such person ''(1) knowingly to sell any security or other property to such registered company * * *; [or] (2) knowingly to purchase from such registered company * * * any security or other property. * * *''

2. Section 2(a)(3) of the 1940 Act defines the term ''affiliated person'' of another person to include, in pertinent part, ''(A) any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting securities of such other person; (B) any person 5 per centum or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; (C) any person directly or indirectly controlling, controlled by, or under common control with, such other person; * * * [and] (E) if such other person is an investment company, any investment adviser thereof. * * *''

3. MLLIC and ML of New York, which are under common ownership and control with the Investment Adviser, hold of record more than 5% of the outstanding voting securities of the Acquiring Funds. Because of this 5% ownership, each Acquiring Fund might be deemed an ''affiliated person'' of MLLIC and ML of New York under Section 2(a)(3)(B). Also, MLLIC and ML of New York are ''affiliated persons'' of the Investment Adviser under Section 2(a)(3)(C) by virtue of their common ownership and control by Merrill Lynch. The Investment Adviser, in turn, is an ''affiliated person'' of the Transferor Funds under Section 2(a)(3)(E) by virtue of its investment advisory relationship with those Funds. Therefore, each Acquiring Fund might be deemed ''an affiliated person of an affiliated person'' of the corresponding Transferor Fund.

4. Rule 17a–8 generally exempts from the prohibitions of Section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions are satisfied. For the reasons noted above, Applicants state that the proposed Reorganization might not be deemed exempt from the prohibitions of Section 17(a) by reason of Rule 17a–8.

5. Section 17(b) of the 1940 Act provides that, notwithstanding Section 17(a), any person may file with the Commission an application for an order exempting a proposed transaction from one or more provisions of that subsection and that the Commission shall grant such application and issue such order of exemption if evidence establishes that ''(1) the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (2) the proposed transaction is consistent with the policy of each registered investment company concerned, as recited in its registration statement and reports filed under [the 1940 Act]; and (3) the proposed transaction is consistent with the general purposes of [the 1940 Act].'' The Applicants seek an order under Section 17(b) to permit the Reorganizations to proceed.

6. In this regard, Applicants assert that Transferor Fund shareholders will receive corresponding Acquiring Fund shares with a total net asset value equal to that of the Transferor Fund shares which they previously held. Applicants further assert that the Board found, as contemplated by Rule 17a–8(a) under the 1940 Act, that participation in the Reorganizations is in the best interests of the Transferor Funds and corresponding Acquiring Funds and that the interests of existing shareholders of such Funds will not be diluted as a result of the Reorganizations. In reaching this conclusion, the Board noted that the Reorganizations should not result in any dilution of the interests of the Contract holders for whom the Separate Accounts hold shares of the Transferor Funds and the corresponding Acquiring Funds and should provide those Contract holders with substantially the same benefits as are expected to be realized by the Insurance Companies that own the shares of such Funds directly. The factors considered by the Board included: (1) The compatibility of the objectives, policies and restrictions of the Transferor Funds and the corresponding Acquiring Funds; (2) future cost savings or other advantages which might be achieved by combining the Transferor Funds and the corresponding Acquiring Funds; (3) the tax-free nature of the proposed Reorganizations; (4) the terms and conditions of the Reorganization Agreements; (5) the agreement of the Insurance Companies, primarily MLLIC and ML of New York, to bear a substantial portion of the costs associated with the proposed Reorganizations; (6) that the rate of the advisory fees would remain constant for Transferor Funds' shareholders; (7) that in no event will the holders of Transferor Funds' shares become subject to a less advantageous expense reimbursement ''cap'' as a result of the proposed combination of Funds; and (8) the potential benefits to the Investment Adviser of the transactions contemplated by the Reorganization Agreements.

7. Applicants also note that, consistent with the requirements of Rule 18f–2 under the 1940 Act, the proposed Reorganizations were approved by a majority of the outstanding voting securities of each Transferor Fund, voting as a separate series, as well as by the vote required under applicable state law. Moreover, the Reorganizations were the subject of a registration statement on Form N–14.

Conclusion

For the reasons and upon the facts set forth above, the terms of the proposed Reorganization transactions, including

[2] For example, both Funds may (i) utilize borrowings for temporary emergency purposes or to meet redemption requests; (ii) invest in illiquid securities, although the World Income Focus Fund is limited to investing no more than 10% of its total assets in such securities, whereas the International Bond Fund is limited to 15%; (iii) the World Income Focus Fund has a fundamental restriction that it will not purchase or retain the securities of any issuer, if those individual officers and directors of the Company, the Investment Adviser or any subsidiary thereof each owning beneficially more than ½ of 1% of the securities of such issuer, own in the aggregate more than 5% of the securities of such issuer, whereas the International Bond Fund has such investment restriction as a non-fundamental investment restriction and refers only to Merrill Lynch Funds Distributors, Inc., the distributor of the shares of the Company, in place of ''any subsidiary''; and (iv) the World Income Focus Fund is not prohibited from issuing senior securities whereas the International Bond Fund is so prohibited.

the consideration to be paid and received, are: (a) fair and reasonable and do not involve overreaching on the part of any person concerned; (b) consistent with the policy of each registered investment company concerned, as recited in its registration statements and reports filed under the 1940 Act; and, (c) consistent with the general purposes of the 1940 Act. Accordingly, Applicants submit that the terms of the Reorganizations meet the standards for exemption from Section 17(a) of the 1940 Act as set forth in Section 17(b) thereof.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–29415 Filed 11–15–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37937; File No. SR–NYSE–96–29]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Change Relating to Stock Distributions

November 8, 1996.

On October 11, 1996, the New York Stock Exchange, Inc. (''NYSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–NYSE–96–29) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the Federal Register on October 18, 1996.[2] No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

I. Description

The proposed rule change will allow listed companies engaged in distributions to offer shareholders whose ownership of stock is directly registered with them or their transfer agents the choice of receiving either certificates or account statements. The NYSE is rescinding its policy which required listed companies to supply stock certificates to recordholders for all distributions, such as stock splits, mergers, and spin-offs, other than those relating to dividend reinvestment plans (''DRIPs'') and dividend reinvestment stock purchase plans (''DRSPPs''). The NYSE is rescinding the current policy due to the decreasing importance of physical certificates, the technological enhancements in the automation of stock ownership records, and a recent rule filing by The Depository Trust Company (''DTC'') to implement an electronic ''direct registration system'' (''DRS'').[3]

DRS will provide a linkage between transfer agents, broker-dealers, and the depositories and will allow investors to move stock position from transfer agent to broker-dealers in connection with their sales of stock. As a condition of allowing issuers to provide investors with the option of obtaining either certificates or account statements for distributions in addition to those associated with DRIPs and DRSPPs, NYSE is requiring issuers to include their stock in a DRS. Such a DRS must be operated by a registered clearing agency and must be available for exchange-traded stock.

II. Discussion

Section 6(b)(5)[4] of the Act requires that an exchange have rules that are designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. The Commission believes that NYSE's proposed rule change rescinding its policy will foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. By rescinding its policy, NYSE listed companies will have the opportunity to participate in DRS, which a joint industry committee comprised of representatives from the transfer agent, broker-dealer, and depository communities. DRS will provide significant efficiencies in the processing of securities and should contribute to the cooperation and coordination between the various groups involved in the clearance and settlement process.

NYSE has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication because accelerated approval will allow NYSE listed issuers to participate in the DRS pilot program which begins on November 11, 1996.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 6 of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NYSE–96–29) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–29441 Filed 11–15–96; 8:45 am]

BILLING CODE 8010–01–M

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[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 37809 (October 10, 1996), 61 FR 54476.

[3] For a complete description of DRS, refer to Securities Exchange Act Release No. 35038 (December 1, 1994), 59 FR 63652 (concept release on a transfer agent operated book-entry registration system) and DTC Important Notice B# 1811–96 (October 7, 1996) and Important Notice B# 1841–96 (October 7, 1996), which are attached as Exhibits A and B to Securities Exchange Act Release No. 37800 (October 9, 1996), 61 FR 54473.

[4] 15 U.S.C. 78f (1988).

[5] 17 CFR 200.30–3(a)(12) (1996).

DEPARTMENT OF STATE

[PN 2468]

International Joint Commission; Boundary Waters Treaty of 1909; an Invitation To Comment on the 1996 Progress Report of the Air Quality Committee Under the Canada-United States Air Quality Agreement

The International Joint Commission invites public comment on progress by the United States and Canada in reducing transboundary air pollution under the 1991 Agreement on Air Quality. The Commission will provide a synthesis of the comments to the two governments and the public as directed by the Agreement.

The Governments of the United States and Canada signed an Agreement on Air Quality on March 13, 1991. The purpose of the Agreement was to establish a practical and effective instrument to address shared concerns on transboundary air pollution. The 1996 Progress Report reviews acid rain control programs, monitoring, emission inventories, visibility protection, scientific and technical cooperation, and includes the first five-year review of the Agreement.

Under the terms of the Agreement, the Governments established a bilateral Air Quality Committee. This Committee is responsible for reviewing progress made in the implementation of the Agreement, preparing and submitting periodic progress reports to the Governments, referring each progress

report to the International Joint Commission, and releasing those reports to the public. The 1996 Progress Report of the Committee is now available and may be obtained from:

Acid Rain Division, U.S. Environmental Protection Agency, Mail Code: 6204J, 401 M Street, SW., Washington, DC 20460, Acid Rain Hotline: (202) 233–9620

Environment Canada, Enquiry Centre, 351 St. Joseph Blvd., Hull, Quebec, K1A 0H3, (819) 997–2800.

The Executive Summary is available on Environment Canada's World Wide Web site: http//www.ec.gc.ca/pdb/doe.html

Under the Agreement, the Governments assigned the International Joint Commission the responsibility of inviting comments on each progress report of the Air Quality Committee. The International Joint Commission invites comment on any aspect of the 1996 Progress Report. Please send comments in writing by January 15, 1997 to either address below, or contact us if you have any questions about the comment process.

International Joint Commission, United States Section, 1250 23rd Street, NW., Suite 100, Washington, DC 20440; Telephone: (202) 736–9000; Fax: (202) 736–9015; Email: bevacquaf@ijc.achilles.net

International Joint Commission, Canada Section, 100 Metcalfe Street, 18th Floor, Ottawa, ON K1P 5M1; Telephone: (613) 995–2984; Fax: (613) 993–5583; Email:baileyt@ijc.achilles.net

Dated: November 6, 1996.

James Chandler,

Acting Secretary, United States Section.

[FR Doc. 96–29406 Filed 11–15–96; 8:45 am]

BILLING CODE 4710–14–M

[Public Notice No. 2473]

Advisory Committee on International Communications and Information Policy; Public Meeting

The Department of State is holding the sixth meeting of its Advisory Committee on International Communications and Information Policy. The Committee was renewed on August 22, 1996, in order to continue to provide a formal channel for regular consultation and coordination on major economic, social and legal issues and problems in international communications and information policy, especially as these issues and problems involve users of information and communication services, providers of such services, technology research and development, foreign industrial and regulatory policy, the activities of international organizations with regard to communications and information, and developing country interests.

The 24-person committee was appointed by Ambassador Vonya B. McCann, United States Coordinator for International Communications and Information Policy, U.S. Department of State, and serves under the Chairmanship of Ed Black, President, Computer & Communications Industry Association.

The purpose of this meeting will be to hear reports from the working groups on various issues that chart the future direction and work plan of the committee. The members will look at the substantive issues on which the committee should focus, as well as specific countries and regions of interest to the committee.

The committee will follow the procedures prescribed by the Federal Advisory Committee Act (FACA). Meetings will be open to the public unless a determination is made in accordance with the FACA Section 10(d), 5 U.S.C. 552b(c)(1) and (4) that a meeting or a portion of the meeting should be closed to the public.

This meeting will be held on Thursday, December 12, 1996, from 9:30 a.m.–12:30 p.m. in Room 1105 of the Main Building of the U.S. Department of State, located at 2201 ''C'' Street, N.W., Washington, D.C. 20520. While the meeting is open to the public, admittance to the State Department Building is only by means of a pre-arranged clearance list. In order to be placed on the pre-clearance list, please provide your name, title, company, social security number, date of birth, and citizenship to Shirlett Brewer at (202) 647–5233 or by fax at (202) 647–5957. All attendees must use the ''C'' Street entrance. One of the following valid ID's will be required for admittance: any U.S. driver's license with photo, a passport, or a U.S. Government agency ID.

For further information, contact Timothy C. Finton, Executive Secretary of the committee, at (202) 647–5385.

Dated: November 12, 1996.

Timothy C. Finton,

Executive Secretary, Advisory Committee for International Communications and Information Policy.

[FR Doc. 96–29413 Filed 11–15–96; 8:45 am]

BILLING CODE 4710–45–M

[Public Notice No. 2472]

U.S. State Department Advisory Committee on International Economic Policy of Working Group on Economic Sanctions; Closed Meeting

The Department of State announces a meeting of the U.S. State Department Advisory Committee on International Economic Policy Working Group on Economic Sanctions on Monday, December 2, 1996 at the U.S. Department of State, Washington, D.C. Pursuant to Section 10(d) of the Federal Advisory Committee Act (FACA) and 5 U.S.C. 552b(c)(1), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(9)(B), it has been determined the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed.

For more information contact Joanne Balzano, Working Group on Economic Sanctions, Department of State, Washington, DC 20522–1003, phone: 202–647–1498.

Dated: November 8, 1996.

Alan P. Larson,

Assistant Secretary for Economic and Business Affairs.

[FR Doc. 96–29396 Filed 11–15–96; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice No. 2467]

Notice of Briefing

The Department of State announces the third 1996 briefing on U.S. foreign policy economic sanctions programs to be held on Tuesday, December 17, 1996, from 2:00 p.m. until 3:30 p.m., in the State Department Loy Henderson Auditorium, 2201 C Street NW, Washington, D.C.

This briefing is a follow-on session to the March and July foreign policy economic sanctions briefings hosted by Under Secretary for Economic, Business and Agricultural Affairs Joan Spero and Deputy Assistant Secretary for Energy Sanctions and Commodities Bill Ramsey. As in the earlier briefings, Ambassador Ramsay will present an overview of the sanctions regimes overseen by the State Department's Bureau of Economic and Business Affairs and State Department desk officers will be on hand to discuss country-specific sanctions issues following Ambassador Ramsay's briefing.

Please Note: Persons intending to attend the December 17 briefing must announce this not later than 48 hours before the briefing, and preferably further in advance, to the Department of State, by sending a fax to 202–

647–3953 (Office of the Coordinator for Business Affairs). The announcement must include name, affiliation, Social Security or passport number and date of birth. The above includes government and non-government attendees. One of the following valid photo ID's will be required for admittance: U.S. driver's license with picture, passport, U.S. government ID (company ID's are no longer accepted by Diplomatic Security). Enter from the C Street Main Lobby.

Dated: November 7, 1996.

David A. Ruth,

Senior Coordinator for Business Affairs.

[FR Doc. 96–29407 Filed 11–15–96; 8:45 am]

BILLING CODE 4710–07–M

[Public Notice 2474]

Bureau of Consular Affairs; Registration for the Diversity Immigrant (DV–98) Visa Program

ACTION: Notice of registration period and requirements for the fourth year of the Diversity Immigrant Visa Program.

This public notice provides information on the procedures for obtaining an opportunity to apply for one of the 55,000 immigrant visas to be made available in the DV category during Fiscal Year 1998. This notice is issued pursuant to 22 CFR 42.33, which implements sections 201(a)(3), 201(e), 203(c) and 204(a)(1)(G) of the Immigration and Nationality Act (8 U.S.C. 1151(a)(3), 1153(c), and 1154(a)(1)(G). Readers should note that the Department published amendments to its regulations at 22 CFR 42.33 in the Federal Register on January 22, 1996. [61 FR 1523.]

Information on the Entry Procedures for the 55,000 Immigrant Visas To Be Made Available in the DV Category During Fiscal Year 1998

Sections 201(a)(3), 201(e), 203(c) and 204(a)(1)(G) of the Immigration and Nationality Act, taken together established, effective for Fiscal Year 1995 and thereafter, an annual numerical limitation of 55,000 diversity immigrant visas to be made available to persons from countries that have had low rates of immigration to the United States. The DV–98 registration mail-in period will last 30 days and will be held from noon on February 3, 1997 through noon on March 5, 1997. This will give those eligible, both in the United States and overseas, ample time to mail in an entry.

How Are the Visas Being Apportioned?

The visas will be apportioned among six geographic regions. A greater number of visas will go to those regions that have had lower immigration rates as determined pursuant to INA 203(c). There is, however, a limit of seven percent (or 3,850) on the use of visas by natives of any one foreign state. The regions, along with their Fiscal Year 1998 allotments are:

Africa: (21,179) Includes all countries on the continent of Africa and adjacent islands.

Asia: (7,280) Includes all countries except China, both mainland and Taiwan born, India, Philippines, South Korea, and Vietnam; (Hong Kong is eligible).

Europe: (23,213) Includes all countries except Great Britain (United Kingdom) and its dependent territories and Poland; (Northern Ireland is eligible).

North America: (8) The Bahamas is the only eligible country this year; (Canada is not eligible for this year's lottery.)

Oceania: (844) Includes Australia, New Zealand, Papua New Guinea, and all countries and islands in the South Pacific.

South America, Central America, and the Caribbean: (2,476) Includes all countries except Colombia, Dominican Republic, El Salvador, Jamaica, and Mexico.

Who Is Eligible?

''High admission'' countries are not eligible for the program. ''High admission'' countries are defined as those from which the United States has received more than 50,000 immigrants during the last five fiscal years for which data is available in the immediate relative, or family or employment preference categories. See INA 203(c)(1)(A). Each year the Immigration and Naturalization Services adds the family and employment immigrant admission figures for the previous five fiscal years to identify the countries that must be excluded from the annual diversity lottery. For 1998, ''high admission'' and therefore ineligible countries are: China (mainland and Taiwan), India, The Philippines, Vietnam, South Korea, Poland, United Kingdom and dependent territories (except see below), Canada, Mexico, Jamaica, El Salvador, Colombia, and The Dominican Republic.

Natives of Hong Kong and Northern Ireland are eligible to apply for this year's lottery.

What Are the Requirements?

In addition to being born in a qualifying country, applicants must either (1) have a high school education or its equivalent or (2) within the past five years, have two years of work experience in an occupation that requires at least two years of training or experience. See INA 203(c)(2).

There is no fee or special petition form that must be completed to enter. The entry must be typed or clearly printed in the English alphabet on a sheet of plain paper and must include the following:

1. Applicant's Full Name

Last Name (Surname/Family Name), First Name and Middle Name
(Underline Last Name/Surname/Family Name)
Example: Public, George Quincy

2. Applicant's Date and Place of Birth

Date of birth: Day, Month, Year
Example: 15 November 1961
Place of birth: City/Town, District/ County/Province, Country
Example: Munich, Bavaria, Germany

Please use the current name of the country (e.g. Kazakstan, Russia, Croatia, Slovakia, Eritrea, etc.), if different from the name in use at the time of birth.

3. Name, Date and Place of Birth of Applicant's Spouse and Minor Children, if Any

The spouse and child(ren) of an applicant who is registered for DV–98 status are automatically entitled to the same status. To obtain a visa on the basis of this derivative status, a child must be under 21 years of age and unmarried.

Note: DO NOT list parents as they are not entitled to derivative status.

4. Applicant's Mailing Address, and Phone Number, if Possible

The mailing address must be clear and complete, since it will be to that address that the notification letter for the persons who are registered will be sent. A telephone number is optional.

5. Applicant's Native Country if Different From Country of Birth

6. A Recent 1½ Inch by 1½ Inch Photograph of the Principal Applicant

The applicant's name must be printed across the back of the photograph. (The photograph should be taped to the application with clear tape, not attached by staples or paper clips which can jam the mail processing equipment.)

7. Principal Applicant's Signature Is Required on the Entry

The applicant must sign the entry using his or her normal signature, regardless of whether the entry is prepared and submitted by the applicant or someone else.
(Only the principal applicant, not the spouse and children, needs to submit a signature and photograph.)

This information must be sent by regular mail or air mail to one of six postal addresses in Portsmouth, New Hampshire. Applicants must use the correct postal zip code designated for their native region (see addresses below). Entries must be mailed in a regular letter or business-size envelope with the applicant's native country, full name, and complete mailing address typed or clearly printed in the English alphabet in the upper left-hand corner of the envelope. Postcards are not acceptable.

Only one entry for each applicant may be submitted during the registration period. Duplicate or multiple entries will disqualify individuals from registration for this program. See INA 204(a)(1)(6)(i). Entries received before or after the specified registration dates regardless of when they are postmarked and entries sent to an address other than one of those indicated below are void. All mail received during the registration period will be individually numbered and entries will be selected at random by computer regardless of time of receipt during the mail-in period. Selected entries will be registered and then notified as specified below.

Where Should Entries Be Sent?

Note Carefully the Importance of Using the Correct Postal ZIP Code for Each Region.

Asia: DV–98 Program, National Visa Center, Portsmouth, NH 00210, USA

South America, Central America, and the Caribbean: DV–98 Program, National Visa Center, Portsmouth, NH 00211, USA

Europe: DV–98 Program, National Visa Center, Portsmouth, NH 00212, USA

Africa: DV–98 Program, National Visa Center, Portsmouth, NH 00213, USA

Oceania: DV–98 Program, National Visa Center, Portsmouth, NH 00214, USA

North America: DV–97 Program, National Visa Center, Portsmouth, NH 00215, USA

Is It Necessary To Use An Outside Attorney or Consultant?

The decision to hire an attorney or consultant is entirely up to the applicant. Procedures for entering the Diversity Lottery can be completed without assistance following these simple instructions. However, if applicants prefer to use outside assistance, that is their choice. There are many legitimate attorneys and immigration consultants assisting applicants for reasonable fees, or in some cases for free. Unfortunately, there are other persons who are charging exorbitant rates and making unrealistic claims. The selection of winners is made at random and no outside service can improve an applicant's chances of being chosen or guarantee that an entry will win. Any service that claims it can improve an applicant's odds is promising something it cannot deliver.

Persons who think they have been cheated by a U.S. company or consultant in connection with the Diversity Visa Lottery may wish to contact their local consumer affairs office or the National Fraud Information Center at 1–800–876–7060 or 1–202–835–0159. The U.S. Department of State has no authority to investigate complaints against businesses in the United States.

How Will Winners Be Notified?

Only successful entrants will be notified. They will be notified by mail at the address listed on their entry during the summer of 1997. Winners will also be sent instructions on how to apply for an immigrant visa, including information on a new requirement for a special DV case processing fee. Successful entrants must complete the immigrant visa application process and meet all eligibility requirements under U.S. law to be issued a visa.

Being selected as a winner in the DV Lottery does not automatically guarantee being issued a visa even if the applicant is qualified, because the number of entries selected and registered is greater than the number of immigrant visas available. Those selected will, therefore, need to complete and file their immigrant visa applications quickly. Once all 55,000 visas have been issued, the DV Program for Fiscal Year 1998 will end.

Where To Obtain Instructions on Entering the DV Lottery?

The above Information on entering the DV–98 program is also available 24 hours a day to persons within the United States by calling the Department of State's Visa Lottery Information Center at 1–900–884–8840 at a flat rate of $5.10 per call. Callers will first hear some basic information about the DV Lottery and will be requested to provide their name and address so that printed instructions can be mailed to them. Applicants overseas may continue to contact the nearest U.S. embassy or consulate for instructions on the DV Lottery.

Dated: November 12, 1996.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 96–29403 Filed 11–15–96; 8:45 am]

BILLING CODE 4710–06–P

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Tennessee Valley Authority (Meeting No. 1490).

TIME AND DATE: 10 a.m. (CST), November 20, 1996.

PLACE: TVA Environmental Research Center Auditorium, Muscle Shoals, Alabama.

STATUS: Open.

Agenda

Approval of minutes of meeting held on October 16, 1996.

Discussion Item

Environmental Research Center

New Business

A—Budget and Financing

A1. Adoption of Tennessee Valley Authority Financial Statements for Fiscal Year 1996.

A2. Retention of Net Power Proceeds and Nonpower Proceeds and Payments to the U.S. Treasury in March 1997, pursuant to Section 26 of the TVA Act.

C—Energy

C1. Extension of Contract No. TV–94218V through September 30, 1999, with Team Associates, Inc. The supplement will add $2.4 million to the contract.

C2. Approval for Fossil and Hydro to enter into a 3-year contract with McDaniel Fire Systems for systemwide fire-protection upgrades at TVA's fossil, hydroelectric, and combustion turbine facilities. The contract is not to exceed $30 million.

C3. Two-year contract with Piping and Equipment Company (with provisions for up to three extension periods of one year each) to provide pipe and fittings for TVA fossil, hydro, and nuclear plants. The contract is not to exceed $25 million.

E—Real Property Transactions

E1. Sale of noncommercial, nonexclusive permanent easement affecting 0.09 acre of land on Tellico Lake in Loudon County, Tennessee, to Vernon J. Lowe for construction and maintenance of recreational water-use facilities (Tract No. XTELR–185RE).

E2. Sale of a permanent easement affecting 0.3 acre of land on Nickajack Lake in Marion County, Tennessee, to Doyle Morrison for a road and utilities right-of-way (Tract No. XNJR–22H).

F—Unclassified

F1. Filing of condemnation case.

Information Items

1. Approval for the Chief Administrative Officer to enter into indefinite quantity term contracts with BTG, Inc., CDI Information Services, and National Systems and Research Company for information technology and professional and technical support services.

2. Approval for the Chief Administrative Officer to enter into indefinite quantity term contracts with BTG, Inc., Tennessee Computer Specialties, Inc., and Computer Resource Systems to provide computer desktop systems.

3. Approval of an agreement with Venture Alliance Capital Fund, LLC, to purchase membership shares in Venture Alliance Capital Fund, LLC, a board-managed, limited liability company which invests in companies in the Tennessee Valley region. The purpose of this agreement is to promote economic development, increase power demand, and create jobs in the Tennessee Valley region.

4. Approval of an agreement to make a loan to and purchase membership shares in Workplace Wellness, LLC (WW), to help promote economic development in the Tennessee Valley region. WW is a member-managed, limited liability company developed by Alliance, LLC. WW operates a mobile lab to perform onsite drug testing of employees and applicants and provides drug testing services for TVA Nuclear.

5. Approval of the 1997 power system operating and capital budgets.

6. Abandonment of easement rights affecting approximately 2.1 acres of land on the Ocoee No. 1 Chickamauga Dam Transmission Line (Tract No. OR–134A).

7. Approval for the Chief Administrative Officer to enter into an indefinite quantity term contract with Coleman Research Corporation for an electronic document management system.

8. Filing of a condemnation case.

For more information: Please call TVA Public Relations at (423) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999.

Dated: November 13, 1996.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 96–29524 Filed 11–14–96; 9:43 am]

BILLING CODE 8120–08–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for approval of a new collection, reinstatement, with change, of a previously approved collection for which approval has expired. The ICRs describes the nature of the information collection and its expected burden. The Federal Register Notice soliciting comments on collection of information 2127-new was published on July 1, 1996 [FR 61, page 33891] and the Federal Register Notice soliciting comments on collection of information 2127–0021 was published on July 12, 1996 [FR 61, page 36778].

DATES: Comments must be submitted on or before December 18, 1996.

FOR FURTHER INFORMATION CONTACT: Edward Kosek, (202) 366–2590, and refer to the OMB Control Number.

SUPPLEMENTARY INFORMATION: National Highway Traffic Safety Administration (NHTSA)

Title: Highway Crash Data Collection for Evaluation of Conspicuity Marking on Heavy Truck Trailers.

Type of Request: New Collection.

OMB Control Number: 2127-new.

Form Number: N/A.

Affected Public: State and local governments.

Abstract: Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735), NHTSA is required to conduct periodic evaluations to assess the effectiveness of the vehicle safety standards it has promulgated. These studies estimate the actual safety benefits achieved by the standards and provide a basis for assessing whether the standards are functioning as intended. Typically, the evaluation studies consist of the analyses of highway crash data which compare the experience of vehicles equipped with a given standard with the experience of vehicles not equipped with the standard. In addition to all trailers manufactured since December 1993, which are required to have conspicuity marking, some companies have also equipped their older trailers with the material. Trailers equipped prior to December 1993 sometimes used colors and patterns which differ from those specified in the standard. A data collection effort is planned to provide crash information for the purpose of evaluating the safety effects of the conspicuity requirement under FMVSS No.108. NHTSA will analyze the data to estimate the safety benefits, in terms of crashes, injuries, and fatalities avoided that can be attributed to the requirement.

Annual Estimated Burden: The total estimated annual burden is 2,666 hours.

Title: National Accident Sampling System (NASS).

Type of Request: Reinstatement, with change, of a previously approved collection for which approval has expired.

OMB Control Number: 2127–0021.

Form Numbers: HS–433A, HS–433B, HS–435H, HS–435I, and HS–435F.

Affected Public: Participation is voluntary for all respondents. NHTSA contractor employers begin by going to the police to get copies of accident reports. They select certain accidents, usually the more serious, to investigate. They interview occupants and witnesses, acquire medical records, and inspect the crash scene and vehicles. Data is coded on standard forms and entered into a computerized database.

Abstract: NASS investigates high severity crashes. Once a crash has been selected for investigation, several activities are initiated by the NASS Crashworthiness Data System (CDS) team. Researchers locate, visit, measure, and photograph the crash scene; locate, inspect, and photograph all involved vehicles; conduct a telephone or personal interview with each involved person or surrogate; and obtain and record injury information from hospitals or emergency rooms for all injured victims. During each activity the researchers record information on the NASS vehicle, and occupant/ pedestrian forms as appropriate.

Need for the Information and Proposed Use: NASS CDS data are used to describe and analyze circumstances, mechanisms, and consequences of high severity motor vehicle crashes in the United States. These descriptions and analyses in turn will help to describe the magnitude of vehicle damage and injury severity as related to traffic safety problems. It will give motor vehicle researchers an opportunity to specify areas in which improvements may be possible, design countermeasure programs, and evaluate the effects of existing and proposed safety measures. Users include virtually every program

area in NHTSA, other federal agencies such as the Federal Highway Administration, state and local governments, domestic and foreign motor vehicle manufacturers, insurance and consumer organizations, safety research organizations, universities, foreign government agencies, and individual citizens.

Annual Estimated Burden: The total estimated annual burden is 5,807 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, DC 20503, Attention OST Desk Officer.

Comments are Invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on November 13, 1996.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 96–29484 Filed 11–15–96; 8:45 am]

BILLING CODE 4910–62–P

Aviation Proceedings; Agreements Filed During the Week Ending 11/8/96

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–96–1923
Date filed: November 4, 1996
Parties: Members of the International Air Transport Association
Subject:
PTC12 MEX–EUR 0006 dated October 25, 1996; Mexico-Europe Resos r1–26
Minutes—PTC12 MEX–EUR 0007 dated November 1, 1996
Tables—PTC12 MEX–EUR Fares 0001 dated October 25, 1996
Intended effective date: April 1, 1997

Docket Number: OST–96–1924
Date filed: November 4, 1996
Parties: Members of the International Air Transport Association
Subject:
PTC12 SATL–EUR 0006 dated November 1, 1996
S. Atlantic-Europe Expedited Resos 002a & 015v
Intended effective date: December 1, 1996

Docket Number: OST–96–1925
Date filed: November 4, 1996
Parties: Members of the International Air Transport Association
Subject:
CAC/Reso/185 dated October 7, 1996
Mail Vote A093—Alternative Financial Arrangements for U.K. Agents
Intended effective date: December 1, 1996

Docket Number: OST–96–1930
Date filed: November 6, 1996
Parties: Members of the International Air Transport Association
Subject:
PTC123 0003 dated October 8, 1996 r1–20
North Atlantic Resolutions
Minutes—PTC123 0008 dated November 5, 1996
Tables—PTC123 Fares 0001 dated October 25, 1996
Intended effective date: March 1, 1997

Docket Number: OST–96–1931
Date filed: November 6, 1996
Parties: Members of the International Air Transport Association
Subject:
PTC123 0004 dated October 8, 1996 r1–6
PTC123 0005 dated October 8, 1996 r7–19
Mid/South Atlantic Resolutions
Tables—PTC123 Fares 0002 dated October 25, 1996; PTC123 Fares 0003 dated October 25, 1996
Intended effective date: March 1, 1997

Docket Number: OST–96–1932
Date filed: November 6, 1996
Parties: Members of the International Air Transport Association
Subject:
PTC23 EUR–JK 0003 dated November 5, 1996 r1–7
PTC23 EUR-JK 0004 dated November 5, 1996 r-8
Europe-Japan/Korea Expedited Resos
Intended effective date: December 15/ January 1, 1997

Docket Number: OST–96–1935
Date filed: November 8, 1996
Parties: Members of the International Air Transport Association
Subject:
COMP Telex Mail Vote 835
Cargo—Special Amending Reso 010cc EC Member States
Intended effective date: July 1, 1997

Docket Number: OST–96–1936
Date filed: November 8, 1996
Parties: Members of the International Air Transport Association
Subject:
TC31 Telex Mail Vote 834
Fares from Cook Islands/New Zealand to Canada/US/Mexico/Caribbean r1–3, r–1—070vv, r–2—073mm, r–3—073q
Intended effective date: January 1, 1997

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96–29426 Filed 11–15–96; 8:45 am]

BILLING CODE 4910–62–P

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending November 8, 1996

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–95–676
Date filed: November 4, 1996
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 2, 1996
Description: Application of Falcon Air Express, Inc. pursuant to 14 C.F.R. Section 302.4 and Subpart Q of the Regulations, for an amendment of its certificate of public convenience and necessity to the extent necessary to lift the current one (1) aircraft limitation for domestic and international charter and sub-service transportation.

(Exhibit FAE–2, page 1–8, profit and loss statement are Confidential)

Docket Number: OST–95–677
Date filed: November 4, 1996
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 2, 1996
Description: Application of Falcon Air Express, Inc. pursuant to 14 C.F.R. Section 302.4 and Subpart Q of the Regulations, for an amendment of its certificate of public convenience and necessity to the extent necessary to lift the current one (1) aircraft limitation for domestic and international charter and sub-service transportation.

(Exhibit FAE–2, page 1–8, profit and loss statement are Confidential)

Docket Number: OST–96–1926
Date filed: November 4, 1996
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 2, 1996
Description: Application of Accessair Holdings, Inc., pursuant to 49 U.S.C. Section 41102 and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing interstate and overseas scheduled air transportation of persons, property and mail: Between any point in any state in the United States or the District of Columbia, or any territory or possession of the United States, and any other point in any state of the United States or the District of Columbia, or any territory or possession of the United States.

Docket Number: OST–96–1929
Date filed: November 6, 1996
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 4, 1996
Description: Application of Delta Air Lines, Inc., pursuant to 49 U.S.C. Sections 41102 and 41108 and Subpart Q of the Regulations, applies for renewal of its certificate of public convenience and necessity for Route 562, segment 6, issued by Order 92–5–16, authorizing Delta to engage in foreign air transportation of persons, property and mail between the terminal points New York, N.Y./Newark, N.J.—Mexico City, Mexico. Delta's certificate for Route 562, segment 6 expires on May 8, 1997. Delta requests renewal of its certificate for an additional five year duration.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 96–29425 Filed 11–15–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Correction to the Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Bellingham International Airport, Bellingham, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: This correction amends the information included in the previously published notice.

In notice document Volume 61, No. 180, dated Monday, September 16, 1996, page 48729, under **SUPPLEMENTARY INFORMATION,** the Class or classes of air carriers which the public agency has requested not be required to collect PFCs should read as follows: ''Scheduled air carriers operating aircraft with less than 10-seats, and non-scheduled air carrier and charter flights using aircraft with less than 10-seats.''

FOR FURTHER INFORMATION CONTACT: Ms. Mary Vargas, (206) 227–2660; Seattle Airports District Office, SEA–ADO; Federal Aviation Administration; 1601 Lind Avenue SW, Suite 250; Renton, Washington, 98055–4056.

Issued in Renton, Washington on November 6, 1996.

Sarah P. Dalton,

Acting Manager, Planning, Programming and Capacity Branch, Northwest Mountain Region.

[FR Doc. 96–29482 Filed 11–15–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Boston Logan International Airport, Boston, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a Passenger Facility Charge at Boston Logan International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before December 18, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airport Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Stephen P. Tocco, CEO/Executive Director, Massachusetts Port Authority at the following address: Massachusetts Port Authority, 10 Park Plaza, Boston, Massachusetts 02116.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Massachusetts Port Authority under section 158.23 of Part 158 of the Federal Aviation Regulations.

FOR FURTHER INFORMATION CONTACT: Priscilla A. Scott, PFC Program Manager, Federal Aviation Administration, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803, (617) 238–7614. The application may be reviewed in person at 16 New England Executive Park, Burlington, Massachusetts.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a Passenger Facility Charge (PFC) at Boston Logan International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On October 18, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Massachusetts Port Authority was substantially complete within the requirements of section 158.25 of Part 158 of the Federal Aviation Regulations. The FAA will approve or disapprove the application, in whole or in part, no later than January 18, 1997.

The following is a brief overview of the impose and use application.

PFC Project #: 96–02–C–00–BOS
Level of the proposed PFC: $3.00
Charge effective date: November 1, 1993
Estimated charge expiration date: August 31, 2012
Estimated total net PFC revenue: $705,128,000
Brief description of project:
Use only Projects:
Residential Sound Insulation
Terminal E Modernization
Reconstruction and Construction of Circulating Roadway
Impose and Use Projects: Construction of Elevated Walkways.
Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ATCO).

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Massachusetts Port Authority, 10 Park Plaza, Boston, Massachusetts 02116.

Issued in Burlington, Massachusetts on November 7, 1996.

Bradley A. Davis,

Assistant Manager, Airports Division, New England Region.

[FR Doc. 96–29483 Filed 11–15–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Bradley International Airport, Windsor Locks, CT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a Passenger Facility Charge at Bradley International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before December 18, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airport Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Robert F. Juliano, Bureau Chief, for the State of Connecticut at the following address: Connecticut Department of Transportation, P.O. Box 317546, Newington, Connecticut 06131–7546.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the State of Connecticut under section 158.23 of Part 158 of the Federal Aviation Regulations.

FOR FURTHER INFORMATION CONTACT: Priscilla A. Scott, PFC Program Manager, Federal Aviation Administration, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803, (617) 238–7614. The application may be reviewed in person at 16 New England Executive Park, Burlington, Massachusetts.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a Passenger Facility Charge (PFC) at Bradley International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On October 25, 1996, the FAA determined that the application to use the revenue from a PFC submitted by the State of Connecticut was substantially complete within the requirements of section 158.25 of Part 158 of the Federal Aviation Regulations. The FAA will approve or disapprove the application, in whole or in part, no later than January 25, 1997.

The following is a brief overview of the use application.

PFC Project #: 96–05–U–00–BDL.

Level of the proposed PFC: $3.00.

Charge effective date: October 1, 1993.

Actual charge expiration date: December 1, 1995.

Estimated total net PFC revenue: $1,978,000.

Brief description of project:

Construct Taxiway ''J'' Between Taxiway ''R'' and Runway 15–33
Install Remote Ramp Lights
Install Security Fencing

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: On demand Air Taxi/Commercial Operators (ATCO).

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Connecticut Department of Transportation Building, 2800 Berlin Turnpike, Newington, Connecticut 06131–7546.

Issued in Burlington, Massachusetts on November 7, 1996.

Bradley A. Davis,

Assistant Manager, Airports Division, New England Region.

[FR Doc. 96–29480 Filed 11–15–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose the Revenue From a Passenger Facility Charge (PFC) at Burlington International Airport, Burlington, VT

AGENCY: Federal; Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose the revenue from a Passenger Facility Charge at Burlington International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before December 18, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airport Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. John J. Hamilton, Airport Director for Burlington International Airport at the following address: Burlington International Airport, 1200 Airport Drive, #1, South Burlington, Vermont 05403.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Burlington under § 158.23 of Part 158 of the Federal Aviation Regulations.

FOR FURTHER INFORMATION CONTACT: Priscilla A. Scott, PFC Program Manager, Federal Aviation Administration, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803, (617) 238–7614. The application may be reviewed in person at 16 New England Executive Park, Burlington, Massachusetts.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose the revenue from a Passenger Facility Charge (PFC) at Burlington International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On October 18, 1996, the FAA determined that the application to impose the revenue from a PFC submitted by the City of Burlington was substantially complete within the requirements of § 158.25 of Part 158 of the Federal Aviation Regulations. The FAA will approve or disapprove the application, in whole or in part, no later than January 16, 1997.

The following is a brief overview of the impose application.

PFC Project #: 96–01–1–00–BTV

Level of the proposed PFC: $3.00

Proposed Charge effective date: November 1, 1996
Estimated charge expiration date: June 3, 2001.
Estimated total net PFC revenue: $5,696,253.
Brief description of project:
Expand Terminal Landside
South Commuter Ramp Expansion
North End Development—Site Preparation, Construct Airport Perimeter Road and North Apron Expansion
Reconstruct North End of Taxiway ''A''
Purchase Snow Removal Equipment
Class or classes of air carriers which the public agency has requested not be required to collect PFCs: On demand Air Taxi/Commercial Operators (ATCO).

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Burlington International Airport, 1200 Airport Drive, #1, South Burlington, Vermont, 05403.

Issued in Burlington, Massachusetts on November 7, 1996.

Bradley A. Davis,

Assistant Manager, Airports Division, New England Region.

[FR Doc. 96–29479 Filed 11–15–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Kalamazoo/Battle Creek International Airport, Kalamazoo, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Kalamazoo/Battle Creek International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before December 18, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address:

Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Kenneth Potts, Airport Director of the County of Kalamazoo, Michigan at the following address: Kalamazoo/Battle Creek International Airport, 5235 Portage Road, Kalamazoo, MI 49002.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Kalamazoo under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jack D. Roemer, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, 313–487–7282. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Kalamazoo/Battle Creek International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On October 25, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by County of Kalamazoo, Michigan, was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 29, 1997.

The following is a brief overview of the application.

PFC Application No.: 97–01–C–00–AZO
Level of the proposed PFC: $3.00
Proposed charge effective date: April 1, 1997
Proposed charge expiration date: December 31, 2001
Total estimated PFC revenue: $3,326,365.00

Brief Description of Proposed Project(s)

Projects To Impose and Use

1.1 Construct T-Hanger Taxiways, PAPI, and Building Removal.
1.2 Rehabilitate Entrance Road.
1.3 Install Security Access System.
1.4 Obstruction Removal.
1.5 Acquire Frontend Loader.
1.6 Construct Hold Aprons.
1.7 Construct GA Apron Drainage System and Acquire Friction Testing Vehicle.
1.8 Acquire ARFF Vehicle.
1.9 Taxiway G Rehabilitation.
1.10 Light Taxiways F & G.
1.11 Install Airfield Signs.
1.12 Install Supplemental Wind Cones.
1.13 Install Security Fencing.
1.14 Construct Runway Fillets/GA Taxistreets.
1.15 Acquire SRE Truck with Plow.
1.16 Environmental Assessment for GA Taxiways.
1.17 Master Plan Update.
1.18 Taxiway C Rehabilitaiton.
1.19 Install Wheelchair Lift.
1.20 Acquire and Remove the Air Zoo Restoration Center.
1.21 Acquire Interactive Training Network.
1.23 Install Road Canopy.

Impose Only Project

1.24 Taxiway B Rehabilitation and Relocation.
1.25 Glycol Capture System.
1.26 Construct Wetland Mitigation.
1.27 Construct New Taxiway H.
1.28 Commuter Concourse Expansion.
1.29 Taxiway D Rehabilitation.
1.30 Construct Perimeter Road.
1.31 Taxiway A Rehabilitation.
1.32 Taxiway E Rehabilitation.
1.33 Baggage Claim Area Expansion.

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: Part 135 Air Taxis.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice, and other documents germane to the application in person at the County of Kalamazoo's Airport Director's Office.

Issued in Des Plaines, Illinois, on November 4, 1996.

Benito De Leon,

Manager, Planning/Programming Branch, Airport Division, Great Lakes Region.

[FR Doc. 96–29410 Filed 11–15–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Railroad Administration

[Docket Nos. RSSI 96–1A and RSSI 96–1B, Notice No. 1]

Informal Safety Inquiry on One-Person Crews and Remote-Control Locomotive Operations

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of informal safety inquiry.

SUMMARY: The Federal Railroad Administration (FRA) will conduct an informal safety inquiry concerning a proposal by the Wisconsin Central Ltd. (WC) to expand its use of one-person crews and remote-control locomotive operations. The United Transportation Union (UTU) has filed two petitions for emergency orders requesting that: (1) FRA prohibit the WC from using one-person crews; and (2) FRA prohibit the use of remote control locomotive operations by the WC and all other railroads. FRA intends to collect information to help it determine whether emergency, regulatory, or other action is necessary. FRA asks interested parties to comment on these subjects.

DATES: (1) The hearing will begin at 1:00 p.m. on Wednesday, December 4, 1996, and conclude at 5:00 p.m. on Thursday, December 5th. All times noted are Central Standard Time. (2) Prepared statements to be made at the hearing should be submitted to the Docket Clerk at least two working days before the hearing date (close of business December 2, 1996). Parties who do not meet that deadline may be denied the opportunity to present oral testimony, although their written statements will be included in the record of this proceeding. (3) Parties who do not wish to testify, but wish to submit written comments for inclusion in the safety inquiry docket should submit them by December 2, 1996.

ADDRESSES: (1) Hearing location—Paper Valley Inn, 333 West College Avenue, Appleton, Wisconsin, 54911, (414) 733–8000 (phone), (414) 733–9220 (fax). (2) Docket Clerk, Docket Nos. RSSI 96–1A and RSSI 96–1B, Office of the Chief Counsel, Federal Railroad Administration, 400 7th Street, S.W., Room 8201, Washington, D.C., 20590. Parties should address statements on one-person crews to Docket No. RSSI 96–1A. Statements concerning remote-control locomotive operations should be addressed to Docket No. RSSI 96–1B. If a statement concerns both issues, a copy of the statement should be addressed to each docket.

FOR FURTHER INFORMATION CONTACT: S. Joseph Gallant, Operating Practices Specialist, FRA, 400 7th Street, S.W., Washington, D.C. 20590, (202) 632–3371; or Patricia V. Sun, Trial Attorney, Office of Chief Counsel, FRA, 400 7th Street, S.W., Washington, D.C. 20590, (202) 632–3183.

Background

One-Person Crews

The Wisconsin Central Ltd. (WC) operates about 2800 miles of railroad, primarily in Wisconsin and the Upper Peninsula of Michigan. Currently, the WC operates trains with one-person crews on four routes: a 77-mile run on its White Pine subdivision; switching operations at the Pfizer Rock Quarry; a 56-mile run between Wisconsin Rapids, Wisconsin and Merrillan, Wisconsin; and a 63-mile run between Stevens Point and Neenah, Wisconsin.

In January 1996, the WC proposed to expand its use of one-person crews to an additional four routes, beginning in May 1996. The proposed routes are: a one-way 150-mile run between Sault Ste. Marie, Michigan and Gladstone, Michigan; a turnaround job between Stevens Point and Neenah; a one-way 38-mile turnaround job between Neenah and Fond du Lac, Wisconsin; and a 63-mile run between gravel quarries at Sussex, Wisconsin and Grayslake, Illinois. METRA has recently begun operating passenger train service on portions of this last route.

Other railroads, including the Burlington Northern Santa Fe, Conrail, and Springfield Terminal, currently operate some trains with one-person crews. For the most part, these operations are short, slow trains. (FRA distinguishes these one-person crews from the one person in the cab trains operated by Amtrak and some commuter lines. In the latter type of train, there is actually a two-person crew, since the engineer in the locomotive cab control unit is assisted by a conductor in the passenger cars). The WC proposal, however, is novel in that it would use one-person crews for the first time on trains moving mixed freight over long distances. Thus, the proposed operations pose many complex safety issues. In addition, on April 25, 1996, the United Transportation Union (UTU) filed a petition requesting that FRA issue an emergency order to prohibit the WC altogether from using one-person crews. At about that time, FRA began discussions of its concerns about the safety of these operations with the WC.

After several meetings between representatives of FRA and the WC, the WC agreed in May to defer implementation of any additional trains with one-person crews pending further discussion of FRA's concerns. At a special meeting convened by Deputy Administrator Donald M. Itzkoff, FRA presented the WC with a list of critical safety issues and potential operational problems that FRA had identified. As requested, the WC later submitted a written action plan to FRA detailing its proposed solutions to these problems.

Remote-Control Locomotive Operations

In September 1996, the WC also proposed to begin using remote-controlled yard locomotives in its Neenah and Green Bay, Wisconsin yards. The UTU filed a second petition for an emergency order on September 17, 1996, asking FRA to prohibit not just the WC, but all railroads, from operating engines or trains by remote control.

In 1993, FRA examined the issue of remote-control locomotive operations in the context of a waiver application submitted by the Wheeling & Lake Erie Railroad Company (W&LE) and the promulgation of a proposed test program for remote control operations. (In response to the W&LE's waiver application, the UTU had filed a petition requesting that FRA issue an emergency order against the W&LE prohibiting it from utilizing remote control technology.) Public hearings were held in both proceedings. After extensive review of both the technology and W&LE's operations, FRA denied the UTU's petition and permitted the W&LE to use remote control technology subject to certain conditions.

At the hearing, FRA will again consider this issue. The two WC proposals, namely the use of one-person crews and remote-control locomotive operations, are closely related, since the WC action plan envisions that an engineer working alone would use a remote control in numerous situations. For example, where a train is equipped with a remote control unit, and an engineer must flag through an automatic interlocking, the WC plan calls for the engineer to locate him or herself at the crossing to furnish protection as required, and then use the remote control unit to move the train to the crossing where the engineer would then reboard the locomotive.

Subjects of Inquiry

FRA has thoroughly reviewed the action plan and other submissions by the WC on the use of one-person crews, but seeks to develop additional facts as part of the basis for its decisions on the UTU petitions and on whether there is a need for rulemaking on these subjects. Accordingly, FRA will conduct an informal safety inquiry focussing on the WC's proposed use of one-person crews and remote-control locomotives. Interested parties may submit general comments on industry practice in these areas as well, however. Prior to the hearing, a team of FRA inspectors will conduct site visits to the WC to inspect

its existing one-person crew operations and gather background information.

General Concerns

For both subjects, FRA solicits written and oral comments on such topics as:

- Equipment standards
- Design requirements
- Employee training
- Employee safety
- Standard operating procedures
- Train size and makeup
- Terrain limitations
- Communications
- Inspections and tests
- Operations security

This list of issues is not meant to be all-inclusive. Other concerns may also be raised and discussed at the hearing.

Authority: Secs. 6, 9, Pub. L. 89–670, 80 Stat. 937, 944 (49 U.S.C. 1655, 1657); the statutes referred to in sec. 6(e) (1), (2), (3), (6)(A) of Pub. L. 89–670, 80 Stat. 939 (49 U.S.C. 1655); sec. 202 of Pub. L. 91–458, 84 Stat. 971 as amended by sec. 5(a) of Pub. L. 94–438 (45 U.S.C. 431); and 49 CFR 1.49, unless otherwise noted.

Jolene M. Molitoris,

Administrator.

[FR Doc. 96–29547 Filed 11–15–96; 8:45 am]

BILLING CODE 4910–06–P

National Highway Traffic Safety Administration

Research and Development Programs Meeting

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice announces a public meeting at which NHTSA will describe and discuss specific research and development projects. Further, the notice requests suggestions for topics to be presented by the agency.

DATES AND TIMES: The National Highway Traffic Safety Administration will hold a public meeting devoted primarily to presentations of specific research and development projects on December 11, 1996, beginning at 1:30 p.m. and ending at approximately 5:00 p.m. The deadline for interested parties to suggest agenda topics is 4:15 p.m. on November 22, 1996. Questions may be submitted in advance regarding the agency's research and development projects. They must be submitted in writing by November 29, 1996, to the address given below. If sufficient time is available, questions received after the November 29 date will be answered at the meeting in the discussion period. The individual, group, or company asking a question does not have to be present for the question to be answered. A consolidated list of the questions submitted by November 29 will be available at the meeting and will be mailed to requesters after the meeting.

ADDRESSES: The meeting will be held at the Royce Hotel, Detroit Metro Airport, 31500 Wick Road, Romulus, Michigan 48174. Suggestions for specific R&D topics as described below and questions for the December 11, 1996, meeting relating to the agency's research and development programs should be submitted to the Office of the Associate Administrator for Research and Development, NRD–01, National Highway Traffic Safety Administration, Room 6206, 400 Seventh St., SW, Washington, DC 20590. The fax number is 202–366–5930.

SUPPLEMENTARY INFORMATION: NHTSA intends to provide detailed presentations about its research and development programs in a series of public meetings. The series started in April 1993. The purpose is to make available more complete and timely information regarding the agency's research and development programs. This fifteenth meeting in the series will be held on December 11, 1996.

NHTSA requests suggestions from interested parties on the specific agenda topics to be presented. NHTSA will base its decisions about the agenda, in part, on the suggestions it receives by close of business at 4:15 p.m. on November 22, 1996. Before the meeting, it will publish a notice with an agenda listing the research and development topics to be discussed. The agenda can also be obtained by calling or faxing the information numbers listed elsewhere in this notice. NHTSA asks that the suggestions be limited to six, in priority order, so that the presentations at the December 11 R&D meeting can be most useful to the audience. Specific R&D topics are listed below. Many of these topics have been discussed at previous meetings. Suggestions for agenda topics are not restricted to this listing, and interested parties are invited to suggest other R&D topics of specific interest to their organizations.

Specific R&D Topic is

On-line tracking system for NHTSA's research projects.

Specific Crashworthiness R&D Topics Are

Air bag assessment research,
Improved frontal crash protection (program status, problem identification, offset testing),
Advanced glazing research,
Vehicle aggressivity and fleet compatibility,
Upgrade side crash protection,
Upgrade seat and occupant restraint systems,
Child safety research (ISOFIX),
Child restraint/air bag interaction (CRABI) dummy testing,
Truck crashworthiness/occupant protection,
Crash Injury Research and Engineering Network (CIREN),
National Transportation Biomechanics Research Center (NTBRC),
Head and neck injury research,
Lower extremity injury research,
Thorax injury research,
Human injury simulation and analysis,
Refinements to the Hybrid III dummy, and
Advanced frontal test dummy.

Specific Crash Avoidance R&D Topics Are

Strategic plan for NHTSA's Intelligent Transportation Systems (ITS) crash avoidance research,
Anti-lock brake systems (ABS) research plan,
Truck tire traction,
Portable data acquisition system for crash avoidance research (DASCAR),
Systems to enhance EMS response (automatic collision notification),
Crash causal analysis,
Human factors guidelines for crash avoidance warning devices,
Longer combination vehicle safety,
Drowsy driver monitoring,
Driver workload assessment,
Pedestrian detection devices for school bus safety,
Preliminary rearend collision avoidance system guidelines,
Preliminary road departure collision avoidance system guidelines,
Preliminary intersection collision avoidance system guidelines, and
iminary lane change/merge collision avoidance system guidelines.

National Center for Statistics and Analysis (NCSA) Topics Are

Status of National Accident Sampling System (NASS), including implementation of electronic data collection and changes in sampling,
New Crash Outcome Data Evaluation System (CODES) grants, and Special crash investigation studies of air bag cases.

Separately, questions regarding research projects that have been submitted in writing not later than close of business on November 29, 1996, will be answered. A transcript of the meeting, copies of materials handed out at the meeting, and copies of the suggestions offered by commenters will be available for public inspection in the NHTSA's Technical Reference Division,

Room 5108, 400 Seventh St., SW, Washington, DC 20590. Copies of the transcript will then be available at 10 cents a page, upon request to NHTSA's Technical Reference Division. The Technical Reference Division is open to the public from 9:30 a.m. to 4:00 p.m.

NHTSA will provide technical aids to participants as necessary, during the Research and Development Programs Meeting. Thus, any person desiring the assistance of ''auxiliary aids'' (e.g., sign-language interpreter, telecommunication devices for deaf persons (TTDs), readers, taped texts, braille materials, or large print materials and/or a magnifying device), please contact Rita Gibbons on 202–366–4862 by close of business December 2, 1996.

FOR FURTHER INFORMATION CONTACT: Rita Gibbons, Staff Assistant, Office of Research and Development, 400 Seventh Street, SW, Washington, DC 20590. Telephone: 202–366–4862. Fax number: 202–366–5930.

Issued: November 12, 1996.

William A. Boehly,

Associate Administrator for Research and Development.

[FR Doc. 96–29409 Filed 11–15–96; 8:45 am]

BILLING CODE 4910–59–P

Research and Special Programs Administration

Pipeline Safety User Fees

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice.

SUMMARY: This notice announces that the fiscal year 1997 user fee assessments for pipeline facilities will be mailed to pipeline operators on or about December 10, 1996. The fees to be assessed for natural gas transmission, hazardous liquid and liquefied natural gas (LNG) are as indicated below:

Natural gas transmission pipelines: $67.46 per mile (based on 295,217 miles of pipeline).

Hazardous liquid pipelines: $61.27 per mile (based on 155,180 miles of pipeline).

LNG is based on the number of plants and total storage capacity:

Total storage capacity BBLS		Assessment/ plant
<10,000	=	$1,250
10,000–100,000	=	2,500
100,000–250,000	=	3,750
250,000–500,000	=	5,000
≤500,000	=	7,500

Section 60301 of Title 49, United States Code, authorizes the assessment and collection of pipeline user fees to fund the pipeline safety activities conducted under 49 U.S.C. 60101 *et seq.* The Research and Special Programs Administration (RSPA) assesses each operator of regulated interstate and intrastate natural gas transmission pipelines (as defined in 49 CFR Part 192), and hazardous liquid pipelines carrying petroleum, petroleum products, anhydrous ammonia and carbon dioxide (as defined in 49 CFR Part 195) a share of the total Federal pipeline safety program costs in proportion to the number of miles of pipeline each operator has in service. Onshore pipelines excluded from regulation by 49 CFR 195, are not included. Operators of LNG facilities are assessed based on total storage capacity (as defined in 49 CFR Part 193).

In accordance with the provisions of 49 U.S.C. § 60301, Departmental resources were taken into consideration for determining total program costs. The apportionment ratio between gas and liquid, as shown below, is a result of increased program resources to the hazardous liquid program because of environmental protection activities:

Year(s)	General program costs (gas) (percent)	General program costs (liquid) (percent)
1986–1990	80	20
1991–1992	75	25
1993	75 (¾yr)	25 (¾yr)
	60 (¼yr)	40 (1/4yr)
1994	60	40
1995	75	25
1996	65	35
1997	55	45

In accordance with the regulations of the Department of the Treasury, user fees will be due 30 days after the date of the assessment. Interest, penalties, and administrative charges will be assessed on delinquent debts in accordance with 31 U.S.C. 3717.

Issued in Washington, DC November 12, 1996.

Richard B. Felder

Associate Administrator for Pipeline Safety.

[FR Doc. 96–29478 Filed 11–15–96; 8:45 am]

BILLING CODE 4910–60–P

Surface Transportation Board

[STB Finance Docket No. 33287]

Delaware Valley Railway Company, Inc.—Acquisition and Operation Exemption—Gettysburg Railroad Company

Delaware Valley Railway Company, Inc., a Class III shortline carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire and operate approximately 23.4 route miles from Gettysburg Railroad Company between approximately milepost 31.2, at Gettysburg, PA, and milepost 7.8, at Mount Holly Springs, PA.

The transaction is expected to be consummated on or about November 15, 1996.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33287, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on: Robert A. Wimbish, Esq., Rea, Cross & Auchincloss, Suite 420, 1920 N Street, N.W., Washington, DC 20036. Telephone: (202) 785–3700.

Decided: November 7, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–29433 Filed 11–15–96; 8:45 am]

BILLING CODE 4915–00–P

[STB Finance Docket No. 33291]

Genesee & Wyoming Inc.—Control Exemption—Rail Link, Inc.

Genesee & Wyoming Inc. (GWI), a noncarrier holding company, has filed a notice of exemption to acquire control through stock ownership of Rail Link, Inc. (Rail Link), a noncarrier holding company. Rail Link controls three separate Class III railroads as follows: Carolina Coastal Railway, Inc. (CLNA); Commonwealth Railway, Inc. (CWRY); and Talleyrand Terminal Railroad (TRR).[1]

The transaction will be consummated on or after November 8, 1996.

[1] GWI is acquiring all of the outstanding capital stock of Rail Link and will indirectly control CLNA, CWRY, and TRR.

GWI controls 11 existing Class III carrier subsidiaries: Genesee & Wyoming Railroad Company, Inc., operating in western New York; Dansville and Mount Morris Railroad Company, operating in New York; Rochester & Southern Railroad, Inc., operating in New York; Louisiana & Delta Railroad, Inc., operating in Louisiana; Buffalo & Pittsburgh Railroad, Inc., operating in New York and Pennsylvania; Bradford Industrial Rail, Inc., operating in Pennsylvania and New York; Allegheny & Eastern Railroad, Inc., operating in Pennsylvania; Willamette & Pacific Railroad, Inc., operating in Oregon; GWI Switching Services, operating in Texas; Illinois & Midland Railroad, Inc., operating in Illinois; and Pittsburg & Shawmut Railroad, Inc., operating in Pennsylvania.

GWI states that (i) CLNA, CWRY, and TRR will not connect with any railroad in the GWI corporate family; (ii) the acquisition of control is not part of a series of anticipated transactions that would connect the Rail Link subsidiaries with any railroad in the GWI corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33291, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on Eric M. Hocky, Esq., Gollatz, Griffin, & Ewing, P.C., 213 W. Miner Street, P.O. Box 796, West Chester, PA 19381-0796.

Decided: November 7, 1996.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–29437 Filed 11–15–96; 8:45 am]

BILLING CODE 4915–00–P

UNITED STATES INSTITUTE OF PEACE

Sunshine Act Meeting

DATE/TIME: Thursday, November 21, 1996, 9:00 a.m.—5:30 p.m.

LOCATION: 1550 M Street, NW, M Street Lobby Conference Room, Washington, DC 20005.

STATUS: Open Session—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

AGENDA: November Board Meeting; Approval of Minutes of the Seventy-seventh Meeting of the Board of Directors; Chairman's Report; President's Report; Committee Reports; Review of Grant Applications; Long-Term Planning Goals; Other General Issues.

CONTACT: Dr. Sheryl Brown, Director, Office of Communications, Telephone: (202) 457–1700.

Dated: November 13, 1996.

Charles E. Nelson,

Vice President for Management and Finance, United States Institute of Peace.

[FR Doc. 96–29522 Filed 11–13–96; 4:32 pm]

BILLING CODE 6820–AR–M

DEPARTMENT OF VETERANS AFFAIRS

Future of VA Long-Term Care Advisory Committee, Notice of Establishment

As required by Section 9(a)(2) of the Federal Advisory Committee Act, U.S.C. (App. 1), the VA hereby gives notice of the establishment of the Future of VA Long-Term Care Advisory Committee. The Committee's review is essential to ensure that VA is sufficiently addressing the long-term care needs of veterans, thus VA has determined that this action is in the public interest. Additionally, this Committee's mission does not duplicate the mission of any VA committee.

The objectives of this Committee are to advise the Under Secretary for Health about the structure and delivery of long-term care services and make recommendations necessary for VA to foster progress in this area. The Committee will review the background of nursing home and community-based long-term care in VA, its existing structure, and its mission within the new healthcare arena and the demographic changes of the veteran population. The Committee will examine such issues as: target populations for long-term care services; the size and mix of institutional and non-institutional services; and priorities for care when demand for services exceeds the supply.

The Committee's membership will be selected on the basis of knowledge and experience in current and future long-term care services. To ensure a balance in the recommendations made to the Under Secretary for Health, the Committee will be composed of individuals with expertise in current health care practices, economics and planning for long-term care, business practice and entrepreneurial ventures. Appointments will be for the duration of the Committee unless otherwise directed by the Secretary of Veterans Affairs. This is a mission-specific committee which will be terminated as soon as the stated mission is complete.

The Designated Federal Official for the Committee is Daniel Schoeps, M.A., Chief Community Care Programs, Veterans Health Administration, at (202) 273–8543.

Dated: November 11, 1996.

By Direction of the Secretary.

Eugene A. Brickhouse,

Committee Management Officer.

[FR Doc. 96–29422 Filed 11–15–96; 8:45 am]

BILLING CODE 8320–01–M

Advisory Committee on Former Prisoners of War; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 that a meeting of the Advisory Committee on Former Prisoners of War will be held at the Town and Country Hotel, 500 Hotel Circle North, San Diego, California 92108–3091, from December 4, 1996, through December 6, 1996. The meeting will convene at 8:30 a.m. each day and will be open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the administration of benefits under Title 38, United States Code, for veterans who are former prisoners of war, and to make recommendations on the need of such veterans for compensation, health care and rehabilitation.

On the morning of December 4, the committee will receive briefings and

hold discussions on general business and subcommittee reports. In the afternoon, the committee will receive a report from the subcommittee on the quality of POW examinations. On the morning of December 5, the committee will hold discussions on general business. In the afternoon, they will visit the VA Medical Center. On December 6, the committee will separate into subcommittee working groups (medical/technical).

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Ms. Kristine A. Moffitt, Director, Compensation and Pension Service (21), Department of Veterans Affairs, 810 Vermont Avenue, N.W., Washington, DC 20420. Submitted material must be received at least five business days prior to the meeting. Members of the public may be asked to clarify submitted material prior to consideration by the Committee.

A report of the meeting and roster of Committee members may be obtained from Ms. Moffitt.

By Direction of the Secretary.

Dated: November 6, 1996.

Eugene A. Brickhouse,

Committee Management Officer.

[FR Doc. 96–29421 Filed 11–15–96; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Monday
November 18, 1996

Part II

Environmental Protection Agency

40 CFR Parts 79 and 80

Regulation of Fuels and Fuel Additives: Minor Revisions; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 79 and 80

[FRL–5651–3]

Regulation of Fuels and Fuel Additives: Minor Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The purpose of this action is to make minor revisions and corrections affecting recently-promulgated rules. First, a regulatory provision included in the health effects testing requirements for fuel and fuel additive registration (at 40 CFR part 79) is revised to ensure sufficient scheduling flexibility when test laboratories encounter technical problems. Second, a provision inadvertently omitted from both the Interim Detergent Program and the Detergent Certification Program is added to the regulations (at 40 CFR part 80). The new provision will allow a detergent additive manufacturer to apply one set of performance demonstration tests to multiple detergent additive products containing the same active ingredients. Finally, a regulatory numbering error and a syntactical error affecting the Detergent Certification rule are corrected.

These changes are being implemented without prior notice because EPA believes that they are not controversial. Both of the affected programs serve the public health and environmental protection goals of the Clean Air Act (CAA). The detergent certification program is intended to ensure the emission reduction and fuel efficiency benefits of gasoline detergent additives. The fuel and fuel additive (F/FA) health effects testing program is designed to determine if the emissions of certain gasoline or diesel F/FAs present an unacceptable risk to the public health. The corrections implemented by today's action will facilitate attainment of these program objectives by simplifying the regulatory requirements which might otherwise pertain to some regulated parties.

DATES: This action will be effective on January 17, 1997 unless EPA receives an adverse comment or a request for a public hearing by December 18, 1996. If EPA receives an adverse comment or hearing request by that date, EPA will publish timely notice in the Federal Register withdrawing this rule.

ADDRESSES: Materials relevant to this rulemaking have been placed in Dockets A–90–07 and A–91–77. The dockets are located at the U.S. Environmental Protection Agency, Air Docket Section (LE–131), 401 M Street, S.W., Washington, DC 20460 in Room M–1500 of Waterside Mall. Documents may be inspected between the hours of 8:00 a.m. and 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying. Those wishing to notify EPA of their intent to submit an adverse comment or request a public hearing should contact Jeff Herzog (313) 668–4227, U.S. EPA, Office of Mobile Sources, Fuels and Energy Division, 2565 Plymouth Rd., Ann Arbor, MI 48105 or Jim Caldwell (202) 233–9303, EPA, Office of Mobile Sources, Fuels and Energy Division, Mail Code 6401J, 401 M St. SW., Washington DC 20460.

FOR FURTHER INFORMATION CONTACT: For information related to the registration of fuels and fuel additives under 40 CFR part 79, contact: Joseph Fernandes (202) 233–9756 or James W. Caldwell (202) 233–9303, U.S. EPA, Office of Mobile Sources, Fuels and Energy Division, Mail Code 6406J, 401 M Street, SW., Washington, DC 20460. For information related to detergent additive certification under 40 CFR part 80, contact: Jeffrey A. Herzog, U.S. EPA (FED), Office of Mobile Sources, Fuels and Energy Division, 2565 Plymouth Road, Ann Arbor, MI 48105.

SUPPLEMENTARY INFORMATION:

I. Regulated Entities

Regulated categories and entities potentially affected by this action include:

Category	Examples of regulated entities
Industry	Manufacturers of gasoline and diesel fuel. Manufacturers of additives for gasoline and diesel fuel.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity would be affected by this action, you should carefully examine this preamble and the proposed changes to the regulatory text. You should also carefully examine the existing provisions of the Fuels and Fuel Additives Registration Program at 40 CFR part 79 and the Detergent Certification Program at 40 CFR part 80.

II. F/FA Health Effects Testing Program Correction

A. Background

In accordance with CAA sections 211 (a) and (b)(1), EPA issued, in 1975, basic registration requirements applicable to gasoline and diesel fuels and their additives. These regulations require manufacturers to submit information on their F/FA products (e.g., commercial identity, chemical composition, purpose-in-use, and recommended range of concentration) in order to have such products registered by EPA and to be permitted to market them in the U.S.

Additional registration requirements, implementing sections 211 (b)(2) and (e), were finalized on May 27, 1994 (59 FR 33042, June 27, 1994). These regulations require manufacturers, as part of their F/FA registration responsibilities, to conduct tests and submit information on the health effects of their F/FA products. Organized within a three-tier structure, the requirements include detailed emissions analysis, literature search, and toxicologic studies involving the exposure of laboratory animals to F/FA emissions.

On July 11, 1996, EPA published two additional Federal Register notices concerning the F/FA registration and health effects testing requirements. One was a Notice of Proposed Rulemaking (61 FR 36535) requesting public comment on proposed changes designed to clarify and streamline a variety of organizational, technical, and record keeping provisions of the program. The second notice (61 FR 36506) was a direct final rule which, in the absence of adverse public comment prior to August 12, 1996, implemented several other, relatively minor technical changes.

One of the regulatory sections affected by the direct final rule was § 79.61(d)(5), which contains general rules governing exposure interruptions during toxicologic studies. In changing this section, the intent was to clarify the rule's language and to make the exposure interruption rules more consistent with customary laboratory practices. EPA wished to allow reasonable flexibility in the scheduling and conduct of these complex studies. On the other hand, EPA's interest in the relative toxicity of different F/FAs dictated that controllable sources of variability between tests and test labs should be minimized. Thus, as discussed in the preamble to the rule, EPA expressly intended not to include allowances for Federal holidays in the exposure rules. It was for this reason that the revised language included the

constraint that ''No more than two non-exposure days may occur consecutively during the exposure period, including days on which the minimum exposure time has not been met.'' Toxicologic studies which did not comply with this rule would be considered void.

B. Today's Action

EPA now realizes that, as revised, the exposure rules are considerably more stringent than intended. While the prohibition against three consecutive non-exposure days does effectively disallow holiday downtime, it may also unreasonably penalize testers who unintentionally miss a third consecutive exposure day due to technical difficulties. This might occur, for example, if unexpected equipment problems are encountered on a Monday after an ordinary two-day weekend off. As currently written, the rule does not provide a way to remedy such occurrences. Thus, studies which are otherwise acceptable could become void unnecessarily, and large financial expenditures for repeat testing might be incurred.

The revisions finalized today will prevent these unintended results. The new version still specifies that three consecutive non-exposure days are normally not permitted. However, if a third consecutive day is missed due to circumstances beyond the tester's control, the rule provides that it may be cured by adding a supplementary exposure day at the next available opportunity or, if necessary, at the end of the standard test period. These mechanisms should furnish the scheduling flexibility needed to address equipment and other technical problems which arise during the conduct of laboratory studies. Nevertheless, sufficient regulatory controls are retained to encourage good-faith efforts to adhere to regular test schedules, technical procedures, and effective preventive maintenance practices.

It should be noted that, in instances where the exposure requirements of a specific test protocol differ from the general exposure guidelines finalized today, then the requirements of the specific test protocol take precedence. For example, the general exposure guidelines do not affect the exposure timing requirement specified in § 79.63(e)(4)(iii) of the fertility assessment-teratology guideline, which states that pregnant animal subjects ''shall be exposed to the test atmosphere on each and every day between (and including) the first and fifteenth day of gestation.''

III. Detergent Additive Program Correction

A. Background

The final rule establishing the Detergent Certification Program was published July 5, 1996 (61 FR 35309). The certification rule modified, and will later supersede,[1] the existing Interim Detergent Program, which was published October 14, 1994 (59 FR 54678) and became effective January 1, 1995. These rules were promulgated in compliance with CAA section 211(l), which requires all gasoline sold or transferred to the consumer beginning January 1, 1995 to contain additives preventing the accumulation of deposits in engines or fuel supply systems. The CAA charged EPA with the task of establishing specifications for such detergent additives.

The interim detergent program requires virtually all gasoline used by the consumer to contain effective detergent additives for the control of port fuel injector deposits (PFID) and intake valve deposits (IVD). However, the interim program does not include specific performance tests and standards for the additives. In contrast, the detergent certification program requires manufacturers to conduct specific vehicle-based performance tests, using industry-standard test procedures and specified test fuels, to demonstrate the effective control of IVD and PFID. These certification tests are the basis for determining the minimum concentration at which a detergent additive can be used in gasoline (i.e., the lowest additive concentration or LAC).

B. Today's Actions

1. Multiple Versions of Detergent Packages

Detergent additive manufacturers commonly produce and market (and thus must register under 40 CFR part 79) a number of commercial additive products containing the same detergent-active ingredient(s) at different concentrations. EPA understands that this is a normal business practice, and does not believe it is necessary or desirable to require the effectiveness of each such product variant to be demonstrated in separate certification tests. As EPA stated in the preamble to the interim detergent rule:

> EPA agrees that separate performance tests should not be needed for multiple detergent additive packages which contain the same active detergent ingredients in different concentrations, provided that the minimum recommended treat rate specified in the registration information for each additive package properly accounts for the variations in concentration. Specifically, for each registered detergent package which the manufacturer intends to support with a single set of test data, the final concentration of active detergent ingredients (resulting when the detergent package is added to gasoline at its respective minimum recommended treat rate) must be no less than the minimum concentrations shown to be effective by the testing * * * [S]eparate supporting data are needed only if the actual chemical identity of an active detergent ingredient is changed. (59 FR 54688–89)

Thus, it has not been EPA's intent to require duplicative certification testing for different versions of a particular detergent additive package. Through an oversight, however, a regulatory provision to codify this principle was not included in the interim detergent program regulations, nor did such a provision appear in the final certification program regulations. Today's action corrects these unintentional oversights by adding new regulatory text at § 80.141(c)(3)(v) and § 80.161(b)(1)(ii)(D). The new regulatory provisions permit a detergent additive manufacturer to apply one set of performance data to multiple detergent additive products containing the same active ingredients, provided that the minimum recommended concentration or LAC recorded for each product is adjusted accordingly.

2. Typographical Corrections

The Federal Register document which published the detergent certification final rule (61 FR 35309) contained a numbering error affecting a regulatory provision. Specifically, the provision on ''Procedures for curing use restrictions,'' which should have been labeled as paragraph (9) (nine) in § 80.169(c), was mistakenly labeled as paragraph (g) in § 80.169. In the same paragraph, a reference to ''this paragraph (g)'' should have referred to ''this paragraph (c)(9)''. In addition, the title of the paragraph should have appeared in italic rather than regular type font. These errors are corrected in this direct final rule.

Finally, a syntactical error was made in § 80.172(e), which concerns penalties related to non-conformity with the product transfer document requirements of the detergent certification program. In paragraph (2) of this section, there is an erroneous reference to ''gasoline not additized in conformity with interim detergent program requirements,'' rather than a proper reference to ''gasoline not additized in conformity with detergent

[1] In general, the requirements of the certification program become mandatory for detergent additive manufacturers and blenders on July 1, 1997 and for gasoline retailers on August 1, 1997.

certification program requirements.'' This error is corrected in this direct final rule.

IV. Administrative Requirements

A. Administrative Designation and Regulatory Analysis

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether this regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The order defines ''significant regulatory action'' as any regulatory action that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, EPA has determined that this direct final rule is not a ''significant regulatory action''. The regulatory corrections included in this notice will result in reduction of potential testing costs and related compliance burdens.

B. Regulatory Flexibility Analysis

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this direct final rule. EPA has determined that this rule will not have a significant adverse economic impact on a substantial number of small businesses. On the contrary, the corrections implemented by this rule will simplify compliance and reduce potential testing requirements for all affected parties.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., and implementing regulations, 5 CFR Part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

D. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate; or by the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. The Agency has determined that the direct final rule promulgated today does not include a federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This action does not establish regulatory requirements that may significantly or uniquely affect small governments. In fact, this action has the effect of reducing potential regulatory burdens. Therefore, the requirements of the Unfunded Mandates Reform Act do not apply.

E. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

V. Electronic Copies of Rulemaking Documents

Electronic copies of this rule, and earlier rulemaking documents related to the F/FA Registration Program, the Interim Detergent Program, and the Detergent Certification Program, are available free of charge on EPA's Technology Transfer Network Bulletin Board System (TTNBBS) and on the Internet. For specific instructions, contact Joseph Fernandes at the phone number or address above. These documents are also available in the public dockets referenced above.

List of Subjects

40 CFR Part 79

Environmental protection, Fuels, Fuel additives, Gasoline, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

40 CFR Part 80

Environmental protection, Fuel additives, Gasoline detergent additives, Gasoline, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: November 7, 1996.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, parts 79 and 80 of title 40 of the Code of Federal Regulations are amended as follows:

PART 79—[AMENDED]

1. The authority citation for part 79 continues to read as follows:

Authority: 42 U.S.C. 7414, 7524, 7545 and 7601.

2. Section 79.61 is amended by revising paragraph (d)(5) to read as follows:

§ 79.61 Vehicle emissions inhalation exposure guideline.

* * * * *

(d) * * *

(5) *Exposure conditions.* Unless precluded by the requirements of a particular test protocol, animal subjects shall be exposed to the test atmosphere based on a nominal 5-day-per-week regimen, subject to the following rules:

(i) Each daily exposure must be at least 6 hours plus the time necessary to build the chamber atmosphere to 90 percent of the target exposure atmosphere. Interruptions of daily exposures caused by technical difficulties, if infrequent in occurrence and limited in duration, may be made up the same day by adding equivalent exposure time after the technical problem has been corrected and the exposure atmosphere restored to the required level.

(ii) Normally, no more than two non-exposure days may occur consecutively during the test period. However, if a third consecutive non-exposure day should occur due to circumstances beyond the tester's control, it may be remedied by adding a supplementary exposure day. Federal and other holidays do not constitute such circumstances. Whenever possible, a make-up day should be taken at the first opportunity, i.e., on the next day which would otherwise have been an intentional non-exposure day. If a compensatory day must be scheduled at the end of the standard test period, then it may occur either:

(A) Immediately following the last standard exposure day, with no intervening non-exposure days; or

(B) With up to two intervening non-exposure days, provided that no fewer than two consecutive compensatory exposure days are completed before the test is terminated and the animals sacrificed.

(iii) Except as allowed in paragraph (d)(5)(ii)(B) of this section, in no case shall there be fewer than four exposure days per week at any time during the test period.

(iv) A nominal 90-day (13-week) subchronic test period shall include no fewer than 63 total exposure days.

* * * * *

PART 80—[AMENDED]

1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7545 and 7601(a).

2. § 80.141 is amended by adding paragraph (c)(3)(v) to read as follows:

§ 80.141 Interim detergent gasoline program.

* * * * *

(c) * * *

(3) * * *

(v) A manufacturer may use a single set of test data to demonstrate the deposit control effectiveness of more than one registered detergent additive product, provided that:

(A) the additive products contain all of the same detergent-active components and no detergent-active components other than those contained in common; and

(B) the minimum concentration recommended for the use of each such additive product is specified such that, when each additive product is mixed in gasoline at the recommended concentration, each of its detergent-active components will be present at a final concentration no less than the lowest concentration for that component shown to be effective by the data available for the tested additive product.

* * * * *

3. § 80.161 is amended by adding paragraph (b)(1)(ii)(D) to read as follows:

§ 80.161 Detergent additive certification program.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(D) A manufacturer may use a single set of certification test data to demonstrate the deposit control effectiveness of more than one registered detergent additive product, provided that:

(*1*) the additive products contain all of the same detergent-active components and no detergent-active components other than those contained in common; and

(*2*) the minimum concentration recommended for the use of each such additive product is specified such that, when each additive product is mixed in gasoline at the recommended concentration, each of its detergent-active components will be present at a final concentration no less than the lowest concentration of that component which was present when the tested additive product met the PFID and IVD performance standards specified in § 80.165.

* * * * *

§ 80.169 [Amended]

4. § 80.169 is amended by redesignating paragraph (g) as paragraph (c)(9); in newly designated paragraph (c)(9) introductory text, by revising the reference ''this paragraph (g)'' to read ''this paragraph (c)(9)''; and by italicizing the heading of paragraph (c)(9).

5. § 80.172 is amended by revising paragraph (e)(2) to read as follows:

§ 80.172 Penalties.

* * * * *

(e) * * *

(2) The day that gasoline not additized in conformity with detergent certification program requirements, as a result of the PTD non-conformity, is offered for sale or is dispensed to the ultimate consumer.

* * * * *

[FR Doc. 96–29180 Filed 11–15–96; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Monday
November 18, 1996

Part III

Environmental Protection Agency

Agency Information Collection Activities; Proposed Collection; Comment Request; Environmental Leadership Program; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5652–6]

Agency Information Collection Activities: Proposed Collection; Comment Request; Environmental Leadership Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following proposed and/or continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Environmental Leadership Program, EPA ICR number 1794.01. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before January 17, 1997.

ADDRESSES: Tai-ming Chang (2223A) or Debby Thomas (2223A), U.S. EPA, 401 M St., S.W., Washington D.C. 20460. Interested persons may obtain a copy of the ICR without charge by calling Tai-ming Chang at (202) 564–5081.

FOR FURTHER INFORMATION CONTACT: Tai-ming Chang, (202) 564–5081, or Debby Thomas, (202) 564–5041. Fax number: (202) 564–0050.

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are those which voluntarily choose to participate in the full-scale Environmental Leadership Program.

Title: Environmental Leadership Program.

Abstract: The Environmental Protection Agency (EPA) is developing the Environmental Leadership Program (ELP). The ELP is a voluntary program designed to accomplish several goals, including better protecting the environment and human health by promoting a systematic approach to managing environmental issues and by encouraging environmental enhancement activities (e.g., biodiversity, energy conservation). The Agency also hopes to increase identification and timely resolution of environmental compliance issues by ELP participants. The Mentoring component of the ELP attempts to multiply compliance assistance efforts by incorporating industry as mentors. The overall Program should serve to foster constructive and open relationships between agencies, the regulated community, and the public.

The proposed framework and program requirements as outlined below are also available for comment. As part of the application process for the ELP, facilities will be asked to submit information about their environmental management systems (EMS), compliance and EMS auditing programs, and community outreach and employee involvement programs. Federal facilities applying to the Program must submit a statement affirming they endorse the Code of Environmental Management Principles.

EPA will assess each applicant's information and determine whether they meet Program requirements. For those that do meet the requirements, EPA will conduct a compliance screening and provide a 30-day comment period to the public. A third party auditor that meets ELP EMS auditor qualifications (which may include EPA or State staff) will then verify that the ELP EMS elements are met by the applicant and that the facility has implemented ELP EMS standards.

Upon acceptance to the Program, facilities will be required to submit annual performance reports as a term of participation. The annual performance report should contain the following seven sections: a boiler plate section on EMS activities; objective, goals, and measures for EMS; a table of information on the formal audit (EMS and compliance) for years 2 and 5 of the 6-year participation period; an EMS performance evaluation (results and measures); a table of information on agency inspections; compliance issues and status summary for the year; other environmental enhancement activities; and highlights from community outreach/employee involvement and mentoring programs.

The submission of information for the purposes of application to the ELP is voluntary. The ELP will use a disclosure and confidentiality policy that includes 40 CFR Part 2 and reference to any State-specific regulations of confidentiality. During the application process to ELP, the Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations Policy, dated December 22, 1995 (Federal Register Vol. 60, No. 246) will apply. Information submitted as part of the annual performance report is required for participation in the Program. The annual performance report will be made available to the public. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

EPA is soliciting comments to:

(i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) enhance the quality, utility, and clarity of the information to be collected; and

(iv) minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: It is estimated that approximately 75 facilities may voluntarily apply to the Environmental Leadership Program annually. An estimated 72 hours will be expended to provide EPA with data for application to the ELP. This burden hour estimate translates to a cost of approximately $3,175 per facility [($21/hour×110% overhead) times 72 hours] and a total cost to industry of approximately $238,125 ($3,175 per facility times 75 facilities) in the first year of the program. Facilities will also need 150 hours for preparing the annual performance report. This represents an additional cost to industry of $6,615 per facility and a total cost to industry of $496,125. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: November 1, 1996.

Elaine Stanley,

Director, Office of Compliance.

[FR Doc. 96–29455 Filed 11–15–96; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Monday
November 18, 1996

Part IV

Federal Retirement Thrift Investment Board

5 CFR Parts 1600, 1620 and 1655
Definition of Basic Pay; Thrift Savings Plan Loans; Interim Rule

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Parts 1600, 1620 and 1655

Definition of Basic Pay; Thrift Savings Plan Loans

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Interim rule with request for comments.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing an interim rule to implement two provisions of the Thrift Savings Plan Act of 1996, and to amend the Board's interim loan regulations to codify changes made to the Thrift Savings Plan (TSP) loan program since the loan regulations were published in 1990. This interim rule conforms Board regulations to the statutory definition of ''Basic pay,'' expands TSP loan eligibility, and increases the efficiency of the TSP loan program.

DATES: This interim rule is effective November 18, 1996. Comments must be received by January 17, 1997.

ADDRESSES: Comments may be sent to Patrick J. Forrest, Federal Retirement Thrift Investment Board, 1250 H Street, N.W., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Patrick J. Forrest on (202) 942–1662.

SUPPLEMENTARY INFORMATION: The Board administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Pub. L. 99–335, 100 Stat. 514, which has been codified, as amended, largely at 5 U.S.C. 8401–8479 (1994). The TSP is a tax-deferred retirement savings plan for Federal employees that is similar to cash or deferred arrangements established under section 401(k) of the Internal Revenue Code.

On September 30, 1996, the President signed the Thrift Savings Plan Act of 1996 (the 1996 Act), Pub. L. 104–208, div. A, tit. I, sec. 101(f), § 659. Prior to the passage of the 1996 Act, FERSA contained a definition of ''basic pay'' at 5 U.S.C. 8431. Section 206 of the 1996 Act repealed 5 U.S.C. 8431 and amended 5 U.S.C. 8401(4) to provide that the term ''basic pay'' has the meaning given that term by 5 U.S.C. 8331(3). The Board is amending its regulations to conform with this amendment.

Also prior to the passage of the 1996 Act, FERSA provided at 5 U.S.C. 8433(g)(2) that a TSP loan could be approved only if the funds sought were to be used for the purchase of a primary residence, for financial hardship, or for educational or medical expenses. Section 203(a)(5)(B) of the 1996 Act eliminated this purpose test and the Board is amending its loan regulations to reflect this change. In addition, section 203(a)(5)(A) of the 1996 Act adds the following sentence to 5 U.S.C. 8433(g)(1): ''Before a loan is issued, the Executive Director shall provide in writing the employee or Member with appropriate information concerning the cost of the loan relative to other sources of financing, as well as the lifetime cost of the loan, including the difference in interest rates between the funds offered by the Thrift Savings Fund, and any other effect of such loan on the employee's or Member's final account balance.'' This interim rule amends the Board's loan regulations to add this new requirement.

The Board's interim loan regulations were published on January 10, 1990. Since then, the Board has revised TSP loan procedures to increase the efficiency of the loan program. This interim rule also codifies those revisions.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations will affect only employees of the United States Government.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Waiver of Notice of Proposed Rulemaking and 30-Day Delay of Effective Date

Under 5 U.S.C. 553 (b)(3)(B) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making these regulations effective in less than 30 days. Section 207 of the 1996 Act provides that the 1996 Act shall take effect on the date of its enactment and that its provisions are to be given effect at the earliest practicable date as determined by the Executive Director in regulations. The Executive Director has determined that the Board can give immediate effect to sections 203(a)(5) and 206 of the 1996 Act; therefore, a delay in their implementation would be contrary to the 1996 Act. In addition, because the remaining provisions of this interim rule codify existing TSP loan program procedures, notice and public procedure on them is unnecessary.

Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA), as amended by the Regulatory Enforcement Fairness Act of 1996, Pub. L. 104–121, tit. II, 110 Stat. 847, 857–875 (5 U.S.C. 801(a)(1)(A)), the Board submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to the publication of this rule in today's Federal Register. This rule is not a major rule as defined in section 804(2) of the APA as amended (5 U.S.C. 804(2)).

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4, section 201, 109 Stat. 48, 64, the effect of this regulation on State, local, and tribal governments and on the private sector has been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by any State, local, or tribal governments in the aggregate or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64–65, is not required.

List of Subjects

5 CFR Parts 1600 and 1620

Government employees, Pensions, Retirement.

5 CFR Part 1655

Credit, Government employees, Pensions, Retirement.

Federal Retirement Thrift Investment Board.

Roger W. Mehle,

Executive Director.

For the reasons set out in the preamble, 5 CFR Chapter VI is amended as set forth below:

PART 1600—EMPLOYEE ELECTIONS TO CONTRIBUTE TO THE THRIFT SAVINGS PLAN

1. The authority citation for part 1600 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432(b)(1)(A), 8474(b)(5) and (c)(1).

2. The definition of Basic pay in § 1600.1 is revised to read as follows:

§ 1600.1 Definitions.

* * * * *

Basic pay means basic pay as defined in 5 U.S.C. 8331(3), and it is the rate of pay used in computing any amount the individual is required to contribute to the Civil Service Retirement and

Disability Fund as a condition for participating in the Civil Service Retirement System or the Federal Employees' Retirement System, as the case may be.

* * * * *

PART 1620—CONTINUATION OF ELIGIBILITY

3. The authority citation for part 1620 continues to read as follows:

Authority: 5 U.S.C. 8474 and 8432b; Pub. L. 99–591, 100 Stat. 3341; Pub. L. 100–238, 101 Stat. 1744; Pub. L. 100–659, 102 Stat. 3910; Pub. L. 101–508, 104 Stat. 1388; Pub. L. 104–106, 110 Stat. 186; Pub. L. 104–134, 110 Stat. 1321.

§ 1620.72 [Amended]

4. Section 1620.72 is amended by revising ''8431'' in paragraph (b)(1) to read ''8331(3)''.

§ 1620.83 [Amended]

5. Section 1620.83 is amended by revising ''8431'' in paragraph (a) to read ''8331(3)''.

PART 1655—LOAN PROGRAM

6. The authority citation for part 1655 is revised to read as follows:

Authority: 5 U.S.C. 8433(g) and 8474.

7. Section 1655.1 is amended by removing the definition of ''Mid-Month Processing Cycle'', by revising the definition of ''Interim Account Balance'' and by adding, in alphabetical order, two new definitions to read as follows:

§ 1655.1 Definitions.

* * * * *

Interim Account Balance means the unvalued account balance of a participant's account on the last business day of the month.

* * * * *

Monthly Processing Cycle means the process, beginning on the evening of the fourth business day of the month, by which the recordkeeper allocates the amount of earnings to be credited to participant accounts in the Plan and authorizes disbursements from the Plan.

* * * * *

Taxable Distribution means the reporting to the Internal Revenue Service as taxable income the amount of outstanding principal and interest on a loan upon failure by the participant to repay the loan in full according to the terms of the Loan Agreement/Promissory Note.

* * * * *

8. Section 1655.2 is amended by revising the last sentence to read as follows:

§ 1655.2 Eligibility for loans.

* * * Persons who are eligible to contribute to the Thrift Savings Plan under 5 CFR part 1620 are also eligible to apply for a loan.

9. Section 1655.3 is revised to read as follows:

§ 1655.3 Information concerning the cost of the loan.

Before a loan is issued, the recordkeeper will provide the participant written information concerning the cost of the loan relative to other sources of financing, as well as the lifetime cost of the loan, including the difference in earnings rates between the funds offered by the Thrift Savings Fund and any other effect of the loan on the participant's final account balance.

10. Section 1655.4 is revised to read as follows:

§ 1655.4 Number of loans.

A participant may have no more than two loans outstanding at any time. Only one of the two loans may be a loan for the purchase of a primary residence.

11. Section 1655.9 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1655.9 Effect of loans on individual account.

* * * * *

(b) The removal of the principal for earnings allocation purposes described in paragraph (a) of this section will be prorated according to the investment of the portion of the account represented by employee contributions and attributable earnings in the G Fund, the C Fund, and in the F Fund as of the most recent valuation date.

(c) Loan payments, including both principal and interest, will be credited to the individual account of the participant repaying the loan for the month in which the loan payment is processed by the recordkeeper. The loan payments (principal and interest) will be credited *pro rata* to the G Fund, the C Fund, and the F Fund based upon the proportions of the interim account balances of the G Fund, the C Fund, and the F Fund balances in the borrower's account on the last day of the month prior to the month in which the loan payment is processed. Earnings on loan payments will be credited as described in 5 CFR part 1645.

12. Section 1655.10 is amended by removing paragraph (d) and by revising paragraph (c) to read as follows:

§ 1655.10 Loan application.

* * * * *

(c) The application must contain the following information:

(1) The participant's name, Social Security number, date of birth, current address, and pay cycle;

(2) A statement as to whether the loan is for the purchase of a primary residence as described in § 1655.20;

(3) The amount requested and the loan repayment period;

(4) Marital status of the participant and, if married, the name and address of the participant's spouse; and

(5) Any other information that the Executive Director may from time to time prescribe.

13. Section 1655.11 is amended by revising paragraph (d) to read as follows:

§ 1655.11 Loan Agreement/Promissory Note.

* * * * *

(d) The signed Loan Agreement/Promissory Note must be accompanied by:

(1) A completed and signed discretionary payroll allotment form authorizing deductions of all amounts due under the Loan Agreement/Promissory Note, which deduction the participant agrees to maintain through his or her employing agency;

(2) In the case of a loan for the purchase of a primary residence, supporting materials that document the purchase of the residence and the amount requested. This information is described in § 1655.20; and

(3) Any other information that the Executive Director shall from time to time require.

14. Section 1655.12 is revised to read as follows:

§ 1655.12 Loan approval.

(a) The application will be reviewed by the recordkeeper and will be accepted only if it conforms with the requirements of this part. Upon receipt of the application, the recordkeeper will determine whether:

(1) The participant is qualified to apply for a loan under § 1655.2 and has provided all required information;

(2) The participant already has the maximum number of loans outstanding, or if the application is for a residential loan, the participant already has a residential loan outstanding;

(3) The participant already has a pending loan application;

(4) The requested loan exceeds the maximum amounts set forth in § 1655.6(b), or is less than the minimum amount set forth in § 1655.6(a). If the loan application process date occurs during a month before the monthly processing cycle, the maximum and minimum amounts will be determined using the interim account balance at the

end of the prior month. If the loan application process date occurs after the monthly processing cycle but before the end of the month, the maximum and minimum amounts will be determined using the most recent valued account balance;

(5) The applicant is covered by a retirement system that is eligible to participate in the Thrift Savings Plan;

(6) A CSRS participant who is married but does not know the whereabouts of his or her spouse has been granted an exception to the spousal requirement as described in § 1655.18; and

(7) The participant has received a taxable loan distribution (as described in § 1655.13) from the Thrift Savings Plan within the 12 consecutive month period preceding the date of application, except as a result of a failure to repay the loan upon the participant's separation from service or confirmed non-pay status for a period exceeding one year.

(b) Failure by the applicant to comply with any of the requirements of this part will result in rejection of the loan application.

(c) If the recordkeeper accepts the loan application, a Loan Agreement/Promissory Note will be sent to the applicant, as provided in § 1655.11. When the completed Loan Agreement/Promissory Note is returned by the applicant, along with documentation, if required to be submitted under §§ 1655.11(d) and 1655.20, the loan will be initially approved or denied by the recordkeeper based upon the requirements of this part, including the following conditions:

(1) The participant has signed a promise to pay the loan and a statement that the information provided to the recordkeeper is true and complete to the best of the participant's knowledge;

(2) Processing of the loan would not be prohibited by § 1655.19 relating to court orders;

(3) A FERS participant's spouse has consented to the loan or, if the spouse's whereabouts are unknown or exceptional circumstances make it inappropriate to secure the spouse's consent, an exception to the spousal requirement described in § 1655.18 has been granted;

(4) The completed Loan Agreement/Promissory Note was received by the recordkeeper within 45 days of the date it was prepared;

(5) The participant has completed and signed a loan payment allotment form; and

(6) Any other conditions that the Executive Director may from time to time prescribe.

(d) The loan issue date will occur within 60 days of the date the loan is initially approved unless the recordkeeper determines that:

(1) A court order would prohibit the loan for the reasons described in § 1655.19;

(2) The participant's employing agency has reported the death, retirement, or separation of the participant;

(3) The participant's account balance on the loan issue date does not contain sufficient employee contributions and related earnings to make the loan;

(4) The loan exceeds the maximum loan amount set forth in § 1655.6(b) as of the most recent valuation date; or

(5) The loan does not comply with any other criteria that the Executive Director may from time to time prescribe.

(e) Loans will be issued once a month. After the loan issue date, the recordkeeper will provide information to the United States Treasury which will permit the Treasury to mail a check for the principal amount of the approved loan to the participant.

(f) A loan is considered to have been made to a participant on the loan issue date.

15. Section 1655.13 is amended by revising paragraphs (a)(1), (a)(2)(ii) and (a)(3) to read as follows:

§ 1655.13 Distributions.

(a) * * *

(1) A participant is in confirmed non-pay status for a period of one year or more and the participant has not prepaid the loan as provided in § 1655.17;

(2) * * *

(ii) 90 calendar days after the date of the notice from the recordkeeper to the participant that, because his or her payments were incorrect or missing for 90 calendar days (pursuant to § 1655.15(a)), his or her loan must be reamortized or prepaid in full or a taxable distribution will be declared;

(3) There are incorrect or missing payments (as described in § 1655.15) and the participant fails to or is ineligible to exercise one of the reamortization or repayment in full options set forth in § 1655.15;

* * * * *

16. Section 1655.15 is amended by revising paragraph (b) and the fourth sentence of paragraph (c) to read as follows:

§ 1655.15 Incorrect payments.

* * * * *

(b)(1) Interest from the beginning of the 90-day period described in paragraph (a) of this section will be added to the outstanding loan principal and the participant will be required to reamortize the loan. Generally, a reamortization schedule will be calculated to maintain the remaining number of payments scheduled for the loan. The recordkeeper will prepare and send a Rider to the Loan Agreement/Promissory Note and a new payroll allotment form to the participant. The recordkeeper must receive from the participant a signed Rider to the Loan Agreement/Promissory Note and a newly signed payroll allotment form within 45 calendar days of the date the Rider is prepared. If the 45th day falls on a Saturday, Sunday, or a Federal holiday, the deadline will be the next business day.

(2) If the remaining number of payments would cause the loan term to extend beyond 18 years less 120 days from the loan issue date for a loan for the purchase of a primary residence, or five years less 120 days from the loan issue date for any other loan, the recordkeeper will reamortize the loan to enable the entire amount of principal and interest to be repaid within those limits. The recordkeeper will prepare and send to the participant a Rider to the Loan Agreement/Promissory Note and a new payroll allotment form. The recordkeeper must receive from the participant, within 45 calendar days of the date the Rider is prepared, the signed Rider to the Loan Agreement/Promissory Note and a newly signed payroll allotment form. If the 45th day falls on a Saturday, Sunday, or a Federal holiday, the deadline will be the next business day.

(3) If no reamortized payments can be calculated under this section to allow the loan to be repaid within the time limit described in paragraph (b)(2) of this section, and the participant does not prepay the loan in full, a taxable distribution will be declared.

(4) If the reamortized loan principal would exceed the maximum loan amount as calculated under § 1655.6(b), the loan will not be reamortized. The participant must prepay the loan in full or a taxable distribution will be declared.

(5) If a participant does not sign and return the Rider to the Loan Agreement/Promissory Note, and the participant does not prepay the loan in full, a taxable distribution will be declared.

(6) A reamortization will be calculated based on the assumption that the reamortization will be completed 50 days after the Rider to the Loan Agreement/Promissory Note is prepared.

(c) * * * If the additional payments would extend the term of the loan

beyond five years from the loan issue date (or 18 years from the loan issue date in the case of a loan for the purchase of a primary residence), the participant must either reamortize the loan so as to establish scheduled payments that will repay the loan within those time periods or prepay in full the remaining unpaid amounts.
* * *

* * * * *

17. Section 1655.16 is amended by removing paragraph (d) and by revising paragraph (b) to read as follows:

§ 1655.16 Reamortization.

* * * * *

(b) Before a loan can be reamortized, the recordkeeper must receive from the participant, within 45 days of the date a Rider to the participant's Loan Agreement/Promissory Note was prepared, a signed Rider to his or her Loan Agreement/Promissory Note which describes the estimated terms and conditions of the reamortized loan and a newly signed payroll allotment form. If the 45th day falls on a Saturday, Sunday, or Federal holiday, the deadline will be the next business day.

* * * * *

18. Section 1655.17 is amended by revising the last sentence of paragraph (a) and the first sentence of paragraph (b) to read as follows:

§ 1655.17 Prepayment.

(a) * * * Prepayment in full means receipt by the recordkeeper of payment of all principal and interest due in the form of a certified or cashier's check, a certified or treasurer's draft from a credit union, or a money order.

(b) If a participant returns a loan check to the recordkeeper in order to repay his or her loan, it will be treated as a prepayment in full. * * *

19. Section 1655.18 is revised to read as follows:

§ 1655.18 Spousal rights.

(a) Within seven calendar days of a CSRS participant's loan application process date, the recordkeeper will send a notice to the participant's current spouse that the participant has applied for a loan.

(b) As a condition for approval of the Loan Agreement/Promissory Note for a FERS participant, the participant must provide the recordkeeper with any evidence the Board requires to demonstrate that the current spouse has consented to the loan for which the participant has applied.

(c) A CSRS participant may obtain a waiver of the spousal requirement described in paragraph (a) of this section if the participant establishes, to the satisfaction of the Executive Director, that the spouse's whereabouts are unknown.

(d) A FERS participant may obtain a waiver of the spousal requirement described in paragraph (b) of this section if the participant establishes, to the satisfaction of the Executive Director that:

(1) The spouse's whereabouts are unknown; or

(2) Exceptional circumstances prevent the obtaining of consent.

(e) The procedures for obtaining an exception to the spousal requirements (including the definition of exceptional circumstances) described in paragraphs (c) and (d) of this section will be the same as the procedures described in 5 CFR part 1650.

20. Section 1655.19 is revised to read as follows:

§ 1655.19 Court orders.

Upon receipt of a document that purports to be a qualifying retirement benefits court order or qualifying legal process relating to a participant's legal obligations to provide child support or make alimony payments, the participant's TSP account will be frozen. After the account is frozen, no loan will be allowed until the account is unfrozen. The Board's procedures for processing retirement benefits court orders and legal processes are explained in 5 CFR part 1653.

§§ 1655.21 through 1655.24 [Removed]

21. Sections 1655.21 through 1655.24 are removed.

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Federal Register

Monday
November 18, 1996

Part V

The President

Proclamation 6955—To Provide Duty-Free Treatment to Products of the West Bank and the Gaza Strip and Qualifying Industrial Zones

Federal Register
Vol. 61, No. 223
Monday, November 18, 1996

Presidential Documents

Title 3—

The President

Proclamation 6955 of November 13, 1996

To Provide Duty-Free Treatment to Products of the West Bank and the Gaza Strip and Qualifying Industrial Zones

By the President of the United States of America

A Proclamation

1. Section 9(a) of the United States-Israel Free Trade Area Implementation Act of 1985, as amended (the ''Act'') (19 U.S.C. 2112 note), authorizes the President to proclaim elimination or modification of any existing duty under certain conditions as the President determines is necessary to exempt any article of the West Bank or Gaza Strip or a qualifying industrial zone from duty.

2. Section 9(c) of the Act authorizes the President to proclaim that articles of Israel may be treated as though they were articles directly shipped from Israel for the purposes of the U.S.-Israel Free Trade Agreement (the ''Agreement'') even if shipped to the United States from the West Bank, the Gaza Strip, or a qualifying industrial zone, if the articles otherwise meet the requirements of the Agreement.

3. Section 9(d) of the Act authorizes the President to proclaim that the cost or value of materials produced in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the cost or value of materials produced in Israel under section 1(c)(i) of Annex 3 of the Agreement, and the direct costs of processing operations performed in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the direct costs of processing operations performed in Israel under section 1(c)(ii) of Annex 3 of the Agreement.

4. Section 9(e) of the Act authorizes the President to specify areas that constitute qualifying industrial zones for purposes of the Act.

5. Pursuant to section 9(a) of the Act, I have determined that the Harmonized Tariff Schedule of the United States (HTS) should be modified to provide duty-free entry to qualifying articles that are the product of the West Bank or Gaza Strip or a qualifying industrial zone and are entered in accordance with the provisions of section 9 of the Act.

6. I have decided that articles of Israel may be treated as though they were articles directly shipped from Israel for the purposes of the Agreement even if shipped to the United States from the West Bank, the Gaza Strip, or a qualifying industrial zone, if the articles otherwise meet the requirements of the Agreement.

7. I have decided that the cost or value of materials produced in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the cost or value of materials produced in Israel under section 1(c)(i) of Annex 3 of the Agreement, and the direct costs of processing operations performed in the West Bank, the Gaza Strip, or a qualifying industrial zone may be included in the direct costs of processing operations performed in Israel under section 1(c)(ii) of Annex 3 of the Agreement.

8. Section 604 of the Trade Act of 1974 (19 U.S.C. 2483) authorizes the President to embody in the HTS the substance of the provisions of that Act, and of other acts affecting import treatment, and actions thereunder.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to section 301 of title 3, United States Code, section 9 of the Act (19 U.S.C. 2112 note), and section 604 of the Trade Act of 1974 (19 U.S.C. 2483), do proclaim that:

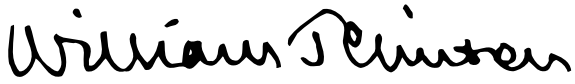
(1) In order to provide the tariff treatment being accorded under the Act, the HTS is modified as set forth in the Annex to this proclamation.

(2) I delegate to the United States Trade Representative the powers granted to me in section 9(e) of the Act to specify through notice in the Federal Register areas constituting qualifying industrial zones.

(3) The modifications to the HTS made by the Annex shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on and after the third day after the date of publication of this proclamation in the Federal Register.

(4) All provisions of previous proclamations and Executive orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of November, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twenty-first.



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ANNEX

MODIFICATIONS TO GENERAL NOTES 3 AND 8 TO
THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on and after the third day after the date of publication of this proclamation in the Federal Register:

1. General note 3(a)(i) is modified by deleting "subparagraph (iv)" and by inserting in lieu thereof "subparagraphs (iv) and (v)".

2. The following new provisions are inserted in numerical sequence in general note 3(a) to the Harmonized Tariff Schedule of the United States:

"(v) Products of the West Bank, the Gaza Strip or a qualifying industrial zone.

(A) Subject to the provisions of this paragraph, articles which are imported directly from the West Bank, the Gaza Strip, a qualifying industrial zone as defined in subdivision (G) of this subparagraph or Israel and are--

(1) wholly the growth, product or manufacture of the West Bank, the Gaza Strip or a qualifying industrial zone; or

(2) new or different articles of commerce that have been grown, produced or manufactured in the West Bank, the Gaza Strip or a qualifying industrial zone, and the sum of--

(I) the cost or value of the materials produced in the West Bank, the Gaza Strip, a qualifying industrial zone or Israel, plus

(II) the direct costs of processing operations (not including simple combining or packaging operations, and not including mere dilution with water or with another substance that does not materially alter the characteristics of such articles) performed in the West Bank, the Gaza Strip, a qualifying industrial zone or Israel,

is not less than 35 percent of the appraised value of such articles;

shall be eligible for duty-free entry into the customs territory of the United States. For purposes of subdivision (A)(2), materials which are used in the production of articles in the West Bank, the Gaza Strip or a qualifying industrial zone, and which are the product of the United States, may be counted in an amount up to 15 percent of the appraised value of such articles.

(B) Articles are "imported directly" for the purposes of this paragraph if--

(1) they are shipped directly from the West Bank, the Gaza Strip, a qualifying industrial zone or Israel into the United States without passing through the territory of any intermediate country; or

(2) they are shipped through the territory of an intermediate country, and the articles in the shipment do not enter into the commerce of any intermediate country and the invoices, bills of lading and other shipping documents specify the United States as the final destination; or

(3) they are shipped through an intermediate country and the invoices and other documents do not specify the United States as the final destination, and the articles--

(I) remain under the control of the customs authority in an intermediate country;

(II) do not enter into the commerce of an intermediate country except for the purpose of a sale other than at retail, but only if the articles are imported as a result of the original commercial transactions between the importer and the producer or the producer's sales agent; and

(III) have not been subjected to operations other than loading, unloading or other activities necessary to preserve the articles in good condition.

(C) The term "new or different articles of commerce" means that articles must have been substantially transformed in the West Bank, the Gaza Strip or a qualifying industrial zone into articles with a new name, character or use.

(D) (1) For the purposes of subdivision (A)(2)(I), the cost or value or materials produced in the West Bank, the Gaza Strip or a qualifying industrial zone includes--

(I) the manufacturer's actual cost for the materials;

(II) when not included in the manufacturer's actual cost for the materials, the freight, insurance, packing and all other costs incurred in transporting the materials to the manufacturer's plant;

(III) the actual cost of waste or spoilage, less the value of recoverable scrap; and

(IV) taxes or duties imposed on the materials by the West Bank, the Gaza Strip or a qualifying industrial zone, if such taxes are not remitted on exportation.

(2) If a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of--

(I) all expenses incurred in the growth, production or manufacturer of the material, including general expenses;

(II) an amount for profit; and

(III) freight, insurance, packing and all other costs incurred in transporting the material to the manufacturer's plant.

(3) If the information necessary to compute the cost or value of a material is not available, the Customs Service may ascertain or estimate the value thereof using all reasonable methods.

(E) (1) For purposes of this paragraph, the "direct costs of processing operations performed in the West Bank, the Gaza Strip or a qualifying industrial zone" with respect to an article are those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture or assembly of that article. Such costs include, but are not limited to, the following to the extent that they are includible in the appraised value of articles imported into the United States:

(I) All actual labor costs involved in the growth, production, manufacture or assembly of the article, including fringe benefits, on-the-job training and costs of engineering, supervisory, quality control and similar personnel;

(II) Dies, molds, tooling and depreciation on machinery and equipment which are allocable to such articles;

(III) Research, development, design, engineering and blueprint costs insofar as they are allocable to such articles; and

(IV) Costs of inspecting and testing such articles.

(2) Those items that are not included as direct costs of processing operations with respect to an article are those which are not directly attributable to the article or are not costs of manufacturing the article. Such items include, but are not limited to--

(I) profit; and

(II) general expenses of doing business which are either not allocable to the article or are not related to the growth, production, manufacture or assembly of the article, such as administrative salaries, casualty and liability insurance, advertising and salesmen's salaries, commissions or expenses.

(F) Whenever articles are entered with a claim for the duty exemption provided in this paragraph--

(1) the importer shall be deemed to certify that such articles meet all of the conditions for duty exemption; and

(2) when requested by the Customs Service, the importer, manufacturer or exporter submits a declaration setting forth all pertinent information with respect to such articles, including the following:

(I) A description of such articles, quantities, numbers and marks of packages, invoice numbers and bills of lading;

(II) A description of the operations performed in the production of such articles in the West Bank, the Gaza Strip, a qualifying industrial zone or Israel and an identification of the direct costs of processing operations;

(III) A description of the materials used in the production of such articles which are wholly the growth, product or manufacture of the West Bank, the Gaza Strip, a qualifying industrial zone, Israel or the United States, and a statement as to the cost or value of such materials;

(IV) A description of the operations performed on, and a statement as to the origin and cost or value of, any foreign materials used in such articles which are claimed to have been sufficiently processed in the West Bank, the Gaza Strip, a qualifying industrial zone or Israel so as to be materials produced in the West Bank, the Gaza Strip, a qualifying industrial zone or Israel; and

(V) A description of the origin and cost or value of any foreign materials used in the article which have not been substantially transformed in the West Bank, the Gaza Strip or a qualifying industrial zone.

(G) For the purposes of this paragraph, a "qualifying industrial zone" means any area that--

(1) encompasses portions of the territory of Israel and Jordan or Israel and Egypt;

(2) has been designated by local authorities as an enclave where merchandise may enter without payment of duty or excise taxes; and

(3) has been designated by the United States Trade Representative in a notice published in the Federal Register as a qualifying industrial zone."

3. General note 8 is modified as follows:

(a) by inserting in subdivision (b)(ii) of such note the expression "(or directly from the West Bank, the Gaza Strip or a qualifying industrial zone as defined in general note 3(a)(v)(G) to the tariff schedule)" immediately after "Israel";

(b) by inserting in subdivision (b)(iii)(A) of such note the expression ", and including the cost or value of materials produced in the West Bank, the Gaza Strip or a qualifying industrial zone pursuant to general note 3(a)(v) to the tariff schedule," immediately after "Israel"; and

(c) by inserting in subdivision (b)(iii)(B) of such note the expression " and including the direct costs of processing operations performed in the West Bank, the Gaza Strip or a qualifying industrial zone pursuant to general note 3(a)(v) to the tariff schedule," immediately after "Israel,".

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FEDERAL REGISTER PAGES AND DATES, NOVEMBER

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1996. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1996. The CFR volume issued July 1, 1991, should be retained.

[6] No amendments were promulgated during the period October 1, 1995 to September 30, 1995. The CFR volume issued October 1, 1995 should be retained.